



House of Representatives

File No. 755

General Assembly

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Substitute House Bill No. 6985
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 13, 2005

AN ACT ADOPTING REVISED ARTICLE 1 OF THE UNIFORM COMMERCIAL CODE CONCERNING GENERAL PROVISIONS.

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 42a-1-101 of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2005*):

3 (a) This title [shall be known and] may be cited as the "Uniform
4 Commercial Code".

5 (b) This article may be cited as "Uniform Commercial Code--General
6 Provisions".

7 Sec. 2. Section 42a-1-102 of the general statutes is repealed and the
8 following is substituted in lieu thereof (*Effective October 1, 2005*):

9 [(1) This title shall be liberally construed and applied to promote its
10 underlying purposes and policies.

11 (2) Underlying purposes and policies of this title are (a) to simplify,
12 clarify and modernize the law governing commercial transactions; (b)

13 to permit the continued expansion of commercial practices through
14 custom, usage and agreement of the parties; (c) to make uniform the
15 law among the various jurisdictions.

16 (3) The effect of provisions of this title may be varied by agreement,
17 except as otherwise provided in this title and except that the
18 obligations of good faith, diligence, reasonableness and care prescribed
19 by this title may not be disclaimed by agreement, but the parties may
20 by agreement determine the standards by which the performance of
21 such obligations is to be measured if such standards are not manifestly
22 unreasonable.

23 (4) The presence in certain provisions of this title of the words
24 "unless otherwise agreed" or words of similar import does not imply
25 the effect of other provisions may not be varied by agreement under
26 subsection (3).

27 (5) In this title unless the context otherwise requires, (a) words in the
28 singular number include the plural, and in the plural include the
29 singular; (b) words of the masculine gender include the feminine and
30 the neuter, and when the sense so indicates words of the neuter gender
31 may refer to any gender.]

32 This article applies to a transaction to the extent that it is governed
33 by another article of this title.

34 Sec. 3. Section 42a-1-103 of the general statutes is repealed and the
35 following is substituted in lieu thereof (*Effective October 1, 2005*):

36 (a) This title shall be liberally construed and applied to promote its
37 underlying purposes and policies, which are:

38 (1) To simplify, clarify and modernize the law governing
39 commercial transactions;

40 (2) To permit the continued expansion of commercial practices
41 through custom, usage and agreement of the parties; and

42 (3) To make uniform the law among the various jurisdictions.

43 (b) Unless displaced by the particular provisions of this title, the
44 principles of law and equity, including the law merchant and the law
45 relative to capacity to contract, principal and agent, estoppel, fraud,
46 misrepresentation, duress, coercion, mistake, bankruptcy, [or] and
47 other validating or invalidating cause [shall] supplement its
48 provisions.

49 Sec. 4. Section 42a-1-105 of the general statutes is repealed and the
50 following is substituted in lieu thereof (*Effective October 1, 2005*):

51 [(1) Except as provided hereafter in this section, when a transaction
52 bears a reasonable relation to this state and also to another state or
53 nation the parties may agree that the law either of this state or of such
54 other state or nation shall govern their rights and duties. Failing such
55 agreement this title applies to transactions bearing an appropriate
56 relation to this state.

57 (2) Where one of the following provisions of this title specifies the
58 applicable law, that provision governs and a contrary agreement is
59 effective only to the extent permitted by the law, including the conflict
60 of laws rules, so specified:

- T1 Rights of creditors against sold goods. Section 42a-2-402.
- T2 Applicability of the article on leases. Sections 42a-2A-105 and
- T3 42a-2A-106.
- T4 Applicability of the article on bank deposits and collections.
- T5 Section 42a-4-102.
- T6 Governing law in the article on funds transfers. Section
- T7 42a-4A-507.
- T8 Letters of credit. Section 42a-5-116.
- T9 Applicability of the article on investment securities. Section
- T10 42a-8-110.
- T11 Law governing perfection, the effect of perfection or

T12 nonperfection and the priority of security interests and
T13 agricultural liens. Sections 42a-9-301 to 42a-9-307, inclusive.]

61 If any provision or clause of this title or its application to any person
62 or circumstance is held invalid, the invalidity does not affect other
63 provisions or applications of this title which can be given effect
64 without the invalid provision or application, and to this end the
65 provisions of this title are severable.

66 Sec. 5. Section 42a-1-106 of the general statutes is repealed and the
67 following is substituted in lieu thereof (*Effective October 1, 2005*):

68 [(1) The remedies provided by this title shall be liberally
69 administered to the end that the aggrieved party may be put in as
70 good a position as if the other party had fully performed but neither
71 consequential or special nor penal damages may be had except as
72 specifically provided in this title or by other rule of law.

73 (2) Any right or obligation declared by this title is enforceable by
74 action unless the provision declaring it specifies a different and limited
75 effect.]

76 In this title, unless the statutory context otherwise requires:

77 (1) Words in the singular number include the plural, and those in
78 the plural include the singular; and

79 (2) Words of any gender also refer to any other gender.

80 Sec. 6. (NEW) (*Effective October 1, 2005*) Article 1 of title 42a of the
81 general statutes, as amended by this act, modifies, limits and
82 supersedes the federal Electronic Signatures in Global and National
83 Commerce Act, 15 USC 7001 et seq., except that nothing in article 1 of
84 title 42a of the general statutes, as amended by this act, modifies, limits
85 or supersedes Section 101(c) of that act, 15 USC 7001(c), or authorizes
86 electronic delivery of any of the notices described in Section 103(b) of
87 that act, 15 USC 7003(b).

88 Sec. 7. Section 42a-1-201 of the general statutes is repealed and the
89 following is substituted in lieu thereof (*Effective October 1, 2005*):

90 (a) Unless the context otherwise requires, words or phrases defined
91 in this section, or in the additional definitions contained in other
92 articles of this title that apply to particular articles or parts thereof,
93 have the meanings stated.

94 (b) Subject to [additional] definitions contained in [the subsequent
95 articles of this title which are applicable to specific articles or parts
96 thereof, and unless the context otherwise requires] other articles of this
97 title that apply to particular articles or parts thereof, in this title:

98 (1) "Action", in the sense of a judicial proceeding, includes
99 recoupment, counterclaim, set-off, suit in equity and any other
100 [proceedings] proceeding in which rights are determined.

101 (2) "Aggrieved party" means a party entitled to [resort to] pursue a
102 remedy.

103 (3) "Agreement", as distinguished from "contract", means the
104 bargain of the parties in fact, as found in their language or [by
105 implication] inferred from other circumstances, including course of
106 [dealing or usage of trade or course of performance as provided in
107 sections 42a-1-205 and 42a-2-208. Whether an agreement has legal
108 consequences is determined by the provisions of this title, if applicable;
109 otherwise by the law of contracts] performance, course of dealing or
110 usage of trade as provided in section 15 of this act.

111 (4) "Bank" means any person engaged in the business of banking
112 and includes a savings bank, savings and loan association, credit union
113 and trust company.

114 (5) "Bearer" means a person in control of a negotiable electronic
115 document of title or a person in possession of an instrument, a
116 negotiable tangible document of title, or a certificated security payable
117 to bearer or endorsed in blank.

118 (6) "Bill of lading" means a document of title evidencing the receipt
119 of goods for shipment issued by a person engaged in the business of
120 directly or indirectly transporting or forwarding goods. The term does
121 not include a warehouse receipt.

122 (7) "Branch" includes a separately incorporated foreign branch of a
123 bank.

124 (8) ["Burden of establishing of a fact"] "Burden of establishing" a fact
125 means the burden of persuading the [triers] trier of fact that the
126 existence of the fact is more probable than its nonexistence.

127 (9) "Buyer in ordinary course of business" means a person that buys
128 goods in good faith, without knowledge that the sale violates the rights
129 of another person in the goods, and in the ordinary course from a
130 person, other than a pawnbroker, in the business of selling goods of
131 that kind. A person buys goods in the ordinary course if the sale to the
132 person comports with the usual or customary practices in the kind of
133 business in which the seller is engaged or with the seller's own usual
134 or customary practices. A person that sells oil, gas or other minerals at
135 the wellhead or minehead is a person in the business of selling goods
136 of that kind. A buyer in [the] ordinary course of business may buy for
137 cash, by exchange of other property or on secured or unsecured credit,
138 and may acquire goods or documents of title under a preexisting
139 contract for sale. Only a buyer that takes possession of the goods or has
140 a right to recover the goods from the seller under article 2 may be a
141 buyer in ordinary course of business. [A] "Buyer in ordinary course of
142 business" does not include a person that acquires goods in a transfer in
143 bulk or as security for or in total or partial satisfaction of a money debt,
144 [is not a buyer in ordinary course of business.]

145 (10) "Conspicuous", with reference to a term, means so written,
146 displayed or presented that a reasonable person against which it is to
147 operate ought to have noticed it. Whether a term is "conspicuous" or
148 not is a decision for the court. Conspicuous terms include the
149 following:

150 (A) A heading in capitals equal to or greater in size than the
151 surrounding text, or in contrasting type, font or color to the
152 surrounding text of the same or lesser size; and

153 (B) Language in the body of a record or display in larger type than
154 the surrounding text, or in contrasting type, font or color to the
155 surrounding text of the same size, or set off from surrounding text of
156 the same size by symbols or other marks that call attention to the
157 language.

158 (11) "Consumer" means an individual who enters into a transaction
159 primarily for personal, family or household purposes.

160 ~~[(11)]~~ (12) "Contract", as distinguished from "agreement", means the
161 total legal obligation [which] that results from the parties' agreement
162 as [affected] determined by this title [and] as supplemented by any
163 other applicable [rules of law] laws.

164 ~~[(12)]~~ (13) "Creditor" includes a general creditor, a secured creditor,
165 a lien creditor and any representative of creditors, including an
166 assignee for the benefit of creditors, a trustee in bankruptcy, a receiver
167 in equity and an executor or administrator of an insolvent debtor's or
168 assignor's estate.

169 ~~[(13)]~~ (14) "Defendant" includes a person in the position of
170 defendant in a [cross-action or] counterclaim, cross-claim or third-
171 party claim.

172 ~~[(14)]~~ (15) "Delivery" with respect to an electronic document of title
173 means voluntary transfer of control and with respect to instruments,
174 tangible documents of title, chattel paper, or certificated securities
175 means voluntary transfer of possession.

176 ~~[(15)]~~ (16) "Document of title" means a record (A) that in the regular
177 course of business or financing is treated as adequately evidencing that
178 the person in possession or control of the record is entitled to receive,
179 control, hold and dispose of the record and the goods the record

180 covers, and (B) that purports to be issued by or addressed to a bailee
181 and to cover goods in the bailee's possession which are either
182 identified or are fungible portions of an identified mass. The term
183 includes a bill of lading, transport document, dock warrant, dock
184 receipt, warehouse receipt and order for delivery of goods. An
185 electronic document of title means a document of title evidenced by a
186 record consisting of information stored in an electronic medium. A
187 tangible document of title means a document of title evidenced by a
188 record consisting of information that is inscribed on a tangible
189 medium.

190 [(16)] (17) "Fault" means [wrongful act, omission or breach] a
191 default, breach or wrongful act or omission.

192 [(17) "Fungible" with respect to goods or securities means goods or
193 securities of which any unit is, by nature or usage of trade, the
194 equivalent of any other like unit. Goods which are not fungible shall be
195 deemed fungible for the purposes of this title to the extent that under a
196 particular agreement or document unlike units are treated as
197 equivalents.]

198 (18) "Fungible goods" means:

199 (A) Goods of which any unit, by nature or usage of trade, is the
200 equivalent of any other like unit; or

201 (B) Goods that by agreement are treated as equivalent.

202 [(18)] (19) "Genuine" means free of forgery or counterfeiting.

203 [(19)] (20) "Good faith" means honesty in fact [in the conduct or
204 transaction concerned] and the observance of reasonable commercial
205 standards of fair dealing.

206 [(20)] (21) "Holder" means:

207 (A) The person in possession of a negotiable instrument that is
208 payable either to bearer or to an identified person that is the person in

209 possession;

210 (B) The person in possession of a negotiable tangible document of
211 title if the goods are deliverable either to bearer or to the order of the
212 person in possession; or

213 (C) The person in control of a negotiable electronic document of
214 title.

215 [(21) To "honor" is to pay or to accept and pay, or where a credit so
216 engages to purchase or discount a draft complying with the terms of
217 the credit.]

218 (22) ["Insolvency proceedings"] "Insolvency proceeding" includes
219 [any] an assignment for the benefit of creditors or other [proceedings]
220 proceeding intended to liquidate or rehabilitate the estate of the person
221 involved.

222 (23) [A person is "insolvent" who either has ceased to pay his debts
223 in the ordinary course of business or cannot pay his debts as they
224 become due or is insolvent within the meaning of the federal
225 bankruptcy law] "Insolvent" means:

226 (A) Having generally ceased to pay debts in the ordinary course of
227 business other than as a result of bona fide dispute;

228 (B) Being unable to pay debts as they become due; or

229 (C) Being insolvent within the meaning of federal bankruptcy law.

230 (24) "Money" means a medium of exchange currently authorized or
231 adopted by a domestic or foreign government. [and] The term includes
232 a monetary unit of account established by an intergovernmental
233 organization or by agreement between two or more [nations]
234 countries.

235 [(25) Subject to subdivision (27) of this section, a person has "notice"
236 of a fact if the person:

237 (A) Has actual knowledge of it;

238 (B) Has received a notice or notification of it; or

239 (C) From all the facts and circumstances known to the person at the
240 time in question, has reason to know that it exists. A person "knows" or
241 has "knowledge" of a fact when the person has actual knowledge of it.
242 "Discover" or "learn" or a word or phrase of similar import refers to
243 knowledge rather than to reason to know. The time and circumstances
244 under which a notice or notification may cease to be effective are not
245 determined by this title.

246 (26) A person "notifies" or "gives" a notice or notification to another
247 person by taking such steps as may be reasonably required to inform
248 the other person in ordinary course, whether or not the other person
249 actually comes to know of it. Subject to subdivision (27) of this section,
250 a person "receives" a notice or notification when:

251 (A) It comes to that person's attention; or

252 (B) It is duly delivered in a form reasonable under the circumstances
253 at the place of business through which the contract was made or at
254 another location held out by that person as the place for receipt of such
255 communications.

256 (27) Notice, knowledge or a notice or notification received by an
257 organization is effective for a particular transaction from the time
258 when it is brought to the attention of the individual conducting that
259 transaction, and in any event, from the time when it would have been
260 brought to the individual's attention if the organization had exercised
261 due diligence. An organization exercises due diligence if it maintains
262 reasonable routines for communicating significant information to the
263 person conducting the transaction and there is reasonable compliance
264 with the routines. Due diligence does not require an individual acting
265 for the organization to communicate information unless such
266 communication is part of the individual's regular duties or the
267 individual has reason to know of the transaction and that the

268 transaction would be materially affected by the information.]

269 [(28)] (25) "Organization" [includes a corporation, government or
270 governmental subdivision or agency, business trust, estate, trust,
271 partnership or association, two or more persons having a joint or
272 common interest, or any other legal or commercial entity] means a
273 person other than an individual.

274 [(29)] (26) "Party", as [distinct] distinguished from "third party",
275 means a person [who] that has engaged in a transaction or made an
276 agreement [within] subject to this title.

277 [(30)] (27) "Person" [includes an individual or an organization]
278 means an individual, corporation, business trust, estate, trust,
279 partnership, limited liability company, association, joint venture,
280 government, governmental subdivision, agency or instrumentality,
281 public corporation or any other legal or commercial entity.

282 [(31) "Presumption" or "presumed" means that the trier of fact must
283 find the existence of the fact presumed unless and until evidence is
284 introduced which would support a finding of its nonexistence.]

285 (28) "Present value" means the amount as of a date certain of one or
286 more sums payable in the future, discounted to the date certain by use
287 of either an interest rate specified by the parties if that rate is not
288 manifestly unreasonable at the time the transaction is entered into or, if
289 an interest rate is not so specified, a commercially reasonable rate that
290 takes into account the facts and circumstances at the time the
291 transaction is entered into.

292 [(32)] (29) "Purchase" [includes] means taking by sale, lease,
293 discount, negotiation, mortgage, pledge, lien, security interest, issue or
294 reissue, gift or any other voluntary transaction creating an interest in
295 property.

296 [(33)] (30) "Purchaser" means a person [who] that takes by purchase.

297 (31) "Record" means information that is inscribed on a tangible

298 medium or that is stored in an electronic or other medium and is
299 retrievable in perceivable form.

300 [(34)] (32) "Remedy" means any remedial right to which an
301 aggrieved party is entitled with or without resort to a tribunal.

302 [(35)] (33) "Representative" [includes an agent, an officer of a
303 corporation or association, and a trustee, executor or administrator of
304 an estate, or any other] means a person empowered to act for another,
305 including an agent, an officer of a corporation or association, and a
306 trustee, executor or administrator of an estate.

307 [(36) "Rights" include remedies.]

308 (34) "Right" includes remedy.

309 [(37)] (35) "Security interest" means an interest in personal property
310 or fixtures which secures payment or performance of an obligation.
311 [The term also] "Security interest" includes any interest of a consignor
312 and a buyer of accounts, chattel paper, a payment intangible or a
313 promissory note in a transaction that is subject to article 9. [The]
314 "Security interest" does not include the special property interest of a
315 buyer of goods on identification of such goods to a contract for sale
316 under section 42a-2-401, [is not a "security interest",] but a buyer may
317 also acquire a "security interest" by complying with article 9. Except as
318 otherwise provided in section 42a-2-505, the right of a seller or lessor of
319 goods under article 2 or 2A to retain or acquire possession of the goods
320 is not a "security interest", but a seller or lessor may also acquire a
321 "security interest" by complying with article 9. The retention or
322 reservation of title by a seller of goods, notwithstanding shipment or
323 delivery to the buyer [pursuant to] under section 42a-2-401, is limited
324 in effect to a reservation of a "security interest". Whether a transaction
325 [creates a lease or a "security interest" is determined by the facts of
326 each case; however, a transaction creates a "security interest" if the
327 consideration the lessee is to pay the lessor for the right to possession
328 and use of the goods is an obligation for the term of the lease not
329 subject to termination by the lessee, and (a) the original term of the

330 lease is equal to or greater than the remaining economic life of the
331 goods, (b) the lessee is bound to renew the lease for the remaining
332 economic life of the goods or is bound to become owner of the goods,
333 (c) the lessee has an option to renew the lease for the remaining
334 economic life of the goods for no additional consideration or nominal
335 additional consideration upon compliance with the lease agreement, or
336 (d) the lessee has an option to become the owner of the goods for no
337 additional consideration or nominal additional consideration upon
338 compliance with the lease agreement. A transaction does not create a
339 "security interest" merely because it provides that (A) the present value
340 of the consideration the lessee is obligated to pay the lessor for the
341 right to possession and use of the goods is substantially equal to or is
342 greater than the fair market value of the goods at the time the lease is
343 entered into, (B) the lessee assumes risk of loss of the goods, or agrees
344 to pay taxes, insurance, filing, recording or registration fees, or service
345 or maintenance costs with respect to the goods, (C) the lessee has an
346 option to renew the lease or to become the owner of the goods, (D) the
347 lessee has an option to renew the lease for a fixed rent that is equal to
348 or greater than the reasonably predictable fair market rent for the use
349 of the goods for the term of the renewal at the time the option is to be
350 performed, or (E) the lessee has an option to become the owner of the
351 goods for a fixed price that is equal to or greater than the reasonably
352 predictable fair market value of the goods at the time the option is to
353 be performed. For the purposes of this subdivision: (i) Additional
354 consideration is not nominal if (I) when the option to renew the lease is
355 granted to the lessee, the rent is stated to be the fair market rent for the
356 use of the goods for the term of the renewal determined at the time the
357 option is to be performed, or (II) when the option to become the owner
358 of the goods is granted to the lessee, the price is stated to be the fair
359 market value of the goods determined at the time the option is to be
360 performed; (ii) additional consideration is nominal if it is less than the
361 lessee's reasonably predictable cost of performing under the lease
362 agreement if the option is not exercised; (iii) "reasonably predictable"
363 and "remaining economic life of the goods" are to be determined with
364 reference to the facts and circumstances at the time the transaction is

365 entered into; and (iv) "present value" means the amount as of a date
366 certain of one or more sums payable in the future, discounted to the
367 date certain. The discount is determined by the interest rate specified
368 by the parties if the rate is not manifestly unreasonable at the time the
369 transaction is entered into; otherwise, the discount is determined by a
370 commercially reasonable rate that takes into account the facts and
371 circumstances of each case at the time the transaction was entered into]
372 in the form of a lease creates a "security interest" is determined
373 pursuant to section 42a-1-203, as amended by this act.

374 [(38)] (36) "Send" in connection with a writing, record or notice
375 means:

376 (A) To deposit in the mail or deliver for transmission by any other
377 usual means of communication with postage or cost of transmission
378 provided for and properly addressed and, in the case of an instrument,
379 to an address specified thereon or otherwise agreed, or if there be none
380 to any address reasonable under the circumstances; or

381 (B) In any other way to cause to be received any record or notice
382 within the time it would have arrived if properly sent.

383 [(39)] (37) "Signed" includes using any symbol executed or adopted
384 [by a party] with present intention to [authenticate] adopt or accept a
385 writing.

386 (38) "State" means a state of the United States, the District of
387 Columbia, Puerto Rico, the United States Virgin Islands or any
388 territory or insular possession subject to the jurisdiction of the United
389 States.

390 [(40)] (39) "Surety" includes a guarantor or other secondary obligor.

391 [(41) "Telegram" includes a message transmitted by radio, teletype,
392 cable, any mechanical method of transmission, or the like.]

393 [(42)] (40) "Term" means [that] a portion of an agreement [which]
394 that relates to a particular matter.

395 [(43)] (41) "Unauthorized signature" means [one] a signature made
396 without actual, implied, or apparent authority. [and] The term
397 includes a forgery.

398 [(44)] "Value". Except as otherwise provided by sections 42a-3-303,
399 42a-4-210 and 42a-4-211 with respect to negotiable instruments and
400 bank collections a person gives "value" for rights if he acquires them
401 (a) in return for a binding commitment to extend credit or for the
402 extension of immediately available credit whether or not drawn upon
403 and whether or not a charge-back is provided for in the event of
404 difficulties in collection; or (b) as security for or in total or partial
405 satisfaction of a preexisting claim; or (c) by accepting delivery
406 pursuant to a preexisting contract for purchase; or (d) generally, in
407 return for any consideration sufficient to support a simple contract.]

408 [(45)] (42) "Warehouse receipt" means a document of title issued by
409 a person engaged in the business of storing goods for hire.

410 [(46)] (43) "Written" or "writing" includes printing, typewriting or
411 any other intentional reduction to tangible form.

412 Sec. 8. Section 42a-1-202 of the general statutes is repealed and the
413 following is substituted in lieu thereof (*Effective October 1, 2005*):

414 [A document in due form purporting to be a bill of lading, policy or
415 certificate of insurance, official weigher's or inspector's certificate,
416 consular invoice, or any other document authorized or required by the
417 contract to be issued by a third party shall be prima facie evidence of
418 its own authenticity and genuineness and of the facts stated in the
419 document by the third party.]

420 (a) Subject to subsection (f) of this section, a person has "notice" of a
421 fact if the person:

422 (1) Has actual knowledge of it;

423 (2) Has received a notice or notification of it; or

424 (3) From all the facts and circumstances known to the person at the
425 time in question, has reason to know that it exists.

426 (b) "Knowledge" or "knows" means actual knowledge.

427 (c) "Discover", "learn" or words of similar import refer to knowledge
428 rather than to reason to know.

429 (d) A person "notifies" or "gives" a notice or notification to another
430 person by taking such steps as may be reasonably required to inform
431 the other person in ordinary course, whether or not the other person
432 actually comes to know of it.

433 (e) Subject to subsection (f) of this section, a person "receives" a
434 notice or notification when:

435 (1) It comes to that person's attention; or

436 (2) It is duly delivered in a form reasonable under the circumstances
437 at the place of business through which the contract was made or at
438 another location held out by that person as the place for receipt of such
439 communications.

440 (f) Notice, knowledge or a notice or notification received by an
441 organization is effective for a particular transaction from the time it is
442 brought to the attention of the individual conducting that transaction
443 and, in any event, from the time it would have been brought to the
444 individual's attention if the organization had exercised due diligence.
445 An organization exercises due diligence if it maintains reasonable
446 routines for communicating significant information to the person
447 conducting the transaction and there is reasonable compliance with the
448 routines. Due diligence does not require an individual acting for the
449 organization to communicate information unless the communication is
450 part of the individual's regular duties or the individual has reason to
451 know of the transaction and that the transaction would be materially
452 affected by the information.

453 Sec. 9. Section 42a-1-203 of the general statutes is repealed and the

454 following is substituted in lieu thereof (*Effective October 1, 2005*):

455 [Every contract or duty within this title imposes an obligation of
456 good faith in its performance or enforcement.]

457 (a) Whether a transaction in the form of a lease creates a lease or a
458 security interest is determined by the facts of each case.

459 (b) A transaction in the form of a lease creates a security interest if
460 the consideration that the lessee is to pay the lessor for the right to
461 possession and use of the goods is an obligation for the term of the
462 lease and is not subject to termination by the lessee, and:

463 (1) The original term of the lease is equal to or greater than the
464 remaining economic life of the goods;

465 (2) The lessee is bound to renew the lease for the remaining
466 economic life of the goods or is bound to become the owner of the
467 goods;

468 (3) The lessee has an option to renew the lease for the remaining
469 economic life of the goods for no additional consideration or for
470 nominal additional consideration upon compliance with the lease
471 agreement; or

472 (4) The lessee has an option to become the owner of the goods for no
473 additional consideration or for nominal additional consideration upon
474 compliance with the lease agreement.

475 (c) A transaction in the form of a lease does not create a security
476 interest merely because:

477 (1) The present value of the consideration the lessee is obligated to
478 pay the lessor for the right to possession and use of the goods is
479 substantially equal to or is greater than the fair market value of the
480 goods at the time the lease is entered into;

481 (2) The lessee assumes risk of loss of the goods;

482 (3) The lessee agrees to pay, with respect to the goods, taxes,
483 insurance, filing, recording or registration fees, or service or
484 maintenance costs;

485 (4) The lessee has an option to renew the lease or to become the
486 owner of the goods;

487 (5) The lessee has an option to renew the lease for a fixed rent that is
488 equal to or greater than the reasonably predictable fair market rent for
489 the use of the goods for the term of the renewal at the time the option
490 is to be performed; or

491 (6) The lessee has an option to become the owner of the goods for a
492 fixed price that is equal to or greater than the reasonably predictable
493 fair market value of the goods at the time the option is to be
494 performed.

495 (d) Additional consideration is nominal if it is less than the lessee's
496 reasonably predictable cost of performing under the lease agreement if
497 the option is not exercised. Additional consideration is not nominal if:

498 (1) When the option to renew the lease is granted to the lessee, the
499 rent is stated to be the fair market rent for the use of the goods for the
500 term of the renewal determined at the time the option is to be
501 performed; or

502 (2) When the option to become the owner of the goods is granted to
503 the lessee, the price is stated to be the fair market value of the goods
504 determined at the time the option is to be performed.

505 (e) The "remaining economic life of the goods" and "reasonably
506 predictable" fair market rent, fair market value or cost of performing
507 under the lease agreement must be determined with reference to the
508 facts and circumstances at the time the transaction is entered into.

509 Sec. 10. Section 42a-1-204 of the general statutes is repealed and the
510 following is substituted in lieu thereof (*Effective October 1, 2005*):

511 [(1) Whenever this title requires any action to be taken within a
512 reasonable time, any time which is not manifestly unreasonable may
513 be fixed by agreement.

514 (2) What is a reasonable time for taking any action depends on the
515 nature, purpose and circumstances of such action.

516 (3) An action is taken "seasonably" when it is taken at or within the
517 time agreed or if no time is agreed at or within a reasonable time.]

518 Except as otherwise provided in articles 3, 4 and 5, a person gives
519 value for rights if the person acquires them:

520 (1) In return for a binding commitment to extend credit or for the
521 extension of immediately available credit, whether or not drawn upon
522 and whether or not a charge-back is provided for in the event of
523 difficulties in collection;

524 (2) As security for, or in total or partial satisfaction of, a preexisting
525 claim;

526 (3) By accepting delivery under a preexisting contract for purchase;
527 or

528 (4) In return for any consideration sufficient to support a simple
529 contract.

530 Sec. 11. Section 42a-1-205 of the general statutes is repealed and the
531 following is substituted in lieu thereof (*Effective October 1, 2005*):

532 [(1) A course of dealing is a sequence of previous conduct between
533 the parties to a particular transaction which is fairly to be regarded as
534 establishing a common basis of understanding for interpreting their
535 expressions and other conduct.

536 (2) A usage of trade is any practice or method of dealing having
537 such regularity of observance in a place, vocation or trade as to justify
538 an expectation that it will be observed with respect to the transaction

539 in question. The existence and scope of such a usage are to be proved
540 as facts. If it is established that such a usage is embodied in a written
541 trade code or similar writing the interpretation of the writing is for the
542 court.

543 (3) A course of dealing between parties and any usage of trade in
544 the vocation or trade in which they are engaged or of which they are or
545 should be aware give particular meaning to and supplement or qualify
546 terms of an agreement.

547 (4) The express terms of an agreement and an applicable course of
548 dealing or usage of trade shall be construed wherever reasonable as
549 consistent with each other; but when such construction is unreasonable
550 express terms control both course of dealing and usage of trade and
551 course of dealing controls usage of trade.

552 (5) An applicable usage of trade in the place where any part of
553 performance is to occur shall be used in interpreting the agreement as
554 to that part of the performance.

555 (6) Evidence of a relevant usage of trade offered by one party is not
556 admissible unless and until he has given the other party such notice as
557 the court finds sufficient to prevent unfair surprise to the latter.]

558 (a) Whether a time for taking an action required by this title is
559 reasonable depends on the nature, purpose and circumstances of the
560 action.

561 (b) An action is taken seasonably if it is taken at or within the time
562 agreed or, if no time is agreed, at or within a reasonable time.

563 Sec. 12. Section 42a-1-206 of the general statutes is repealed and the
564 following is substituted in lieu thereof (*Effective October 1, 2005*):

565 [(1) Except in the cases described in subsection (2) of this section a
566 contract for the sale of personal property is not enforceable by way of
567 action or defense beyond five thousand dollars in amount or value of
568 remedy unless there is some writing which indicates that a contract for

569 sale has been made between the parties at a defined or stated price,
570 reasonably identifies the subject matter, and is signed by the party
571 against whom enforcement is sought or by his authorized agent.

572 (2) Subsection (1) of this section does not apply to contracts for the
573 sale of goods nor of securities nor to security agreements.]

574 Whenever this title creates a "presumption" with respect to a fact, or
575 provides that a fact is "presumed", the trier of fact must find the
576 existence of the fact unless and until evidence is introduced that
577 supports a finding of its nonexistence.

578 Sec. 13. (NEW) (*Effective October 1, 2005*) (a) Except as provided in
579 this section, when a transaction bears a reasonable relation to this state
580 and also to another state or nation, the parties may agree that the law
581 either of this state or of such other state or nation shall govern their
582 rights and duties. Failing such agreement, title 42a of the general
583 statutes applies to transactions bearing an appropriate relation to this
584 state.

585 (b) Where one of the following provisions of title 42a of the general
586 statutes specifies the applicable law, that provision governs and a
587 contrary agreement is effective only to the extent permitted by the law,
588 including the conflict of laws rules, so specified:

- T14 Rights of creditors against sold goods. Section 42a-2-402 of the
- T15 general statutes, as amended by this act.
- T16 Applicability of the article on leases. Sections 42a-2A-105 and
- T17 42a-2A-106 of the general statutes.
- T18 Applicability of the article on bank deposits and collections.
- T19 section 42a-4-102 of the general statutes.
- T20 Governing law in the article on funds transfers. Section
- T21 42a-4A-507 of the general statutes.
- T22 Letters of credit. Section 42a-5-116 of the general statutes.
- T23 Applicability of the article on investment securities. Section
- T24 42a-8-110 of the general statutes.

T25 Law governing perfection, the effect of perfection or
T26 nonperfection and the priority of security interests and
T27 agricultural liens. Sections 42a-9-301 to 42a-9-307, inclusive, of
T28 the general statutes.

589 Sec. 14. (NEW) (*Effective October 1, 2005*) (a) Except as otherwise
590 provided in subsection (b) of this section or elsewhere in title 42a of the
591 general statutes, the effect of provisions of title 42a of the general
592 statutes may be varied by agreement.

593 (b) The obligations of good faith, diligence, reasonableness and care
594 prescribed by title 42a of the general statutes may not be disclaimed by
595 agreement. The parties, by agreement, may determine the standards by
596 which the performance of such obligations is to be measured if such
597 standards are not manifestly unreasonable. Whenever title 42a of the
598 general statutes requires an action to be taken within a reasonable
599 time, a time that is not manifestly unreasonable may be fixed by
600 agreement.

601 (c) The presence in certain provisions of title 42a of the general
602 statutes of the phrase "unless otherwise agreed", or words of similar
603 import, does not imply that the effect of other provisions may not be
604 varied by agreement under this section.

605 Sec. 15. (NEW) (*Effective October 1, 2005*) (a) A "course of
606 performance" is a sequence of conduct between the parties to a
607 particular transaction that exists if:

608 (1) The agreement of the parties with respect to the transaction
609 involves repeated occasions for performance by a party; and

610 (2) The other party, with knowledge of the nature of the
611 performance and opportunity for objection to it, accepts the
612 performance or acquiesces in it without objection.

613 (b) A "course of dealing" is a sequence of conduct concerning
614 previous transactions between the parties to a particular transaction

615 that is fairly to be regarded as establishing a common basis of
616 understanding for interpreting their expressions and other conduct.

617 (c) A "usage of trade" is any practice or method of dealing having
618 such regularity of observance in a place, vocation or trade as to justify
619 an expectation that it will be observed with respect to the transaction
620 in question. The existence and scope of such a usage must be proved as
621 facts. If it is established that such a usage is embodied in a trade code
622 or similar record, the interpretation of the record is a question of law.

623 (d) A course of performance or course of dealing between the
624 parties or usage of trade in the vocation or trade in which they are
625 engaged or of which they are or should be aware is relevant in
626 ascertaining the meaning of the parties' agreement, may give particular
627 meaning to specific terms of the agreement and may supplement or
628 qualify the terms of the agreement. A usage of trade applicable in the
629 place in which part of the performance under the agreement is to occur
630 may be so utilized as to that part of the performance.

631 (e) Except as otherwise provided in subsection (f) of this section, the
632 express terms of an agreement and any applicable course of
633 performance, course of dealing or usage of trade must be construed
634 whenever reasonable as consistent with each other. If such a
635 construction is unreasonable:

636 (1) Express terms prevail over course of performance, course of
637 dealing and usage of trade;

638 (2) Course of performance prevails over course of dealing and usage
639 of trade; and

640 (3) Course of dealing prevails over usage of trade.

641 (f) Subject to section 42a-2-209 of the general statutes, a course of
642 performance is relevant to show a waiver or modification of any term
643 inconsistent with the course of performance.

644 (g) Evidence of a relevant usage of trade offered by one party is not

645 admissible unless that party has given the other party notice that the
646 court finds sufficient to prevent unfair surprise to the other party.

647 Sec. 16. (NEW) (*Effective October 1, 2005*) Every contract or duty
648 within title 42a of the general statutes imposes an obligation of good
649 faith in its performance and enforcement.

650 Sec. 17. (NEW) (*Effective October 1, 2005*) (a) The remedies provided
651 by title 42a of the general statutes must be liberally administered to the
652 end that the aggrieved party may be put in as good a position as if the
653 other party had fully performed, but neither consequential or special
654 damages nor penal damages may be had except as specifically
655 provided in title 42a of the general statutes or by other rule of law.

656 (b) Any right or obligation declared by title 42a of the general
657 statutes is enforceable by action unless the provision declaring it
658 specifies a different and limited effect.

659 Sec. 18. (NEW) (*Effective October 1, 2005*) A claim or right arising out
660 of an alleged breach may be discharged in whole or in part without
661 consideration by agreement of the aggrieved party in an authenticated
662 record.

663 Sec. 19. (NEW) (*Effective October 1, 2005*) A document in due form
664 purporting to be a bill of lading, policy or certificate of insurance,
665 official weigher's or inspector's certificate, consular invoice, or any
666 other document authorized or required by the contract to be issued by
667 a third party is prima facie evidence of its own authenticity and
668 genuineness and of the facts stated in the document by the third party.

669 Sec. 20. (NEW) (*Effective October 1, 2005*) (a) A party that, with
670 explicit reservation of rights, performs or promises performance or
671 assents to performance in a manner demanded or offered by the other
672 party does not thereby prejudice the rights reserved. Such words as
673 "without prejudice", "under protest" or the like are sufficient.

674 (b) Subsection (a) of this section does not apply to an accord and

675 satisfaction.

676 Sec. 21. (NEW) (*Effective October 1, 2005*) A term providing that one
677 party or that party's successor in interest may accelerate payment or
678 performance or require collateral or additional collateral "at will" or
679 when the party "deems itself insecure", or words of similar import,
680 means that the party has power to do so only if that party in good faith
681 believes that the prospect of payment or performance is impaired. The
682 burden of establishing lack of good faith is on the party against which
683 the power has been exercised.

684 Sec. 22. (NEW) (*Effective October 1, 2005*) An obligation may be
685 issued as subordinated to performance of another obligation of the
686 person obligated, or a creditor may subordinate its right to
687 performance of an obligation by agreement with either the person
688 obligated or another creditor of the person obligated. Subordination
689 does not create a security interest as against either the common debtor
690 or a subordinated creditor.

691 Sec. 23. Subsection (1) of section 42a-2-103 of the general statutes is
692 repealed and the following is substituted in lieu thereof (*Effective*
693 *October 1, 2005*):

694 (1) In this article unless the context otherwise requires: (a) "Buyer"
695 means a person who buys or contracts to buy goods. [(b) "Good faith"
696 in the case of a merchant means honesty in fact and the observance of
697 reasonable commercial standards of fair dealing in the trade. (c)] (b)
698 "Receipt" of goods means taking physical possession of them. [(d)] (c)
699 "Seller" means a person who sells or contracts to sell goods.

700 Sec. 24. Section 42a-2-202 of the general statutes is repealed and the
701 following is substituted in lieu thereof (*Effective October 1, 2005*):

702 Terms with respect to which the confirmatory memoranda of the
703 parties agree or which are otherwise set forth in a writing intended by
704 the parties as a final expression of their agreement with respect to such
705 terms as are included therein may not be contradicted by evidence of

706 any prior agreement or of a contemporaneous oral agreement but may
707 be explained or supplemented (a) by course of performance, course of
708 dealing or usage of trade as provided by section [42a-1-205 or by
709 course of performance as provided by section 42a-2-208] 15 of this act;
710 and (b) by evidence of consistent additional terms unless the court
711 finds the writing to have been intended also as a complete and
712 exclusive statement of the terms of the agreement.

713 Sec. 25. Subsection (3) of section 42a-2-402 of the general statutes is
714 repealed and the following is substituted in lieu thereof (*Effective*
715 *October 1, 2005*):

716 (3) When a seller remains in possession of goods which have been
717 sold or identified to a contract for sale or of goods which, after sale,
718 have been leased back to him, the buyer or lessor of such goods may
719 protect his interest by complying with the filing provisions of article 9.
720 On compliance the buyer or lessor has, against creditors of and
721 purchasers from the seller, the rights of a secured party with a
722 perfected security interest. Such filing does not, of itself, make the
723 interest of the buyer or lessor a security interest, as defined by
724 [subsection (37)] subdivision (35) of subsection (b) of section 42a-1-201,
725 as amended by this act.

726 Sec. 26. Section 42a-2A-102 of the general statutes is repealed and
727 the following is substituted in lieu thereof (*Effective October 1, 2005*):

728 (a) In this article:

729 (1) "Authenticate" means:

730 (A) To sign; or

731 (B) To execute or otherwise adopt a symbol, or encrypt or similarly
732 process a record in whole or in part, with the present intent of the
733 authenticating person to identify the person and adopt or accept a
734 record.

735 (2) "Cancellation" means an act by either party which ends a lease

736 contract because of a default by the other party.

737 (3) "Commercial unit" means a unit of goods which by commercial
738 usage is a single whole for purposes of lease and whose division
739 materially impairs its character or value in the relevant market or in
740 use. A commercial unit may be a single article, such as a machine; a set
741 of articles, such as a suite of furniture or a line of machinery; a
742 quantity, such as a gross or carload; or any other unit treated in use or
743 in the relevant market as a single whole.

744 (4) "Computer" means an electronic device that can perform
745 substantial computations, including numerous arithmetic operations
746 or logic operations, without human intervention during the
747 computation or operation.

748 (5) "Conforming" goods or conduct under a lease contract means
749 goods or performance that are in accordance with the obligations
750 under the contract.

751 (6) "Conspicuous", with reference to a term, means so written,
752 displayed or otherwise presented that a reasonable person against
753 which it is to operate ought to have noticed it. A term in an electronic
754 record intended to evoke a response by an electronic agent is
755 conspicuous if it is presented in a form that would enable a reasonably
756 configured electronic agent to take it into account or react without
757 review of the record by an individual. Conspicuous terms include the
758 following:

759 (A) With respect to a person:

760 (i) A heading in capitals in a size equal to or greater than, or in
761 contrasting type, font or color to, the surrounding text;

762 (ii) Language in the body of a record or display in larger or other
763 contrasting type, font or color or set off from the surrounding text by
764 symbols or other marks that call attention to the language; and

765 (iii) A term prominently referenced in an electronic record or

766 display which is readily accessible and reviewable from the record or
767 display; and

768 (B) With respect to a person or an electronic agent, a term or
769 reference to a term that is so placed in a record or display that the
770 person or electronic agent can not proceed without taking some action
771 with respect to the term or reference.

772 (7) "Consumer" means an individual who leases or contracts to lease
773 goods that, at the time of contracting, are intended by the individual to
774 be used primarily for personal, family or household purposes.
775 Personal, family or household use does not include professional or
776 commercial purposes, including agriculture, business management
777 and investment management, other than management of the
778 individual's personal or family investments.

779 (8) "Consumer lease" means a lease between a merchant lessor and a
780 consumer.

781 (9) "Delivery" means the voluntary transfer of physical possession or
782 control of goods.

783 (10) "Electronic" means relating to technology having electrical,
784 digital, magnetic, wireless, optical or electromagnetic capabilities or
785 similar capabilities.

786 (11) "Electronic agent" means a computer program or electronic or
787 other automated means used to initiate an action or to respond to
788 electronic messages or performances without intervention by an
789 individual at the time of the action or response.

790 (12) "Electronic message" means an electronic record or display
791 stored, generated or transmitted by electronic means for purposes of
792 communication to another person or electronic agent.

793 (13) "Electronic event" means an electronic authentication, message,
794 record or performance.

- 795 (14) "Finance lease" means a lease with respect to which:
- 796 (A) The lessor does not select, manufacture or supply the goods;
- 797 (B) The lessor acquires the goods or the right to possession and use
798 of the goods in connection with the lease or, in the case of goods that
799 have been leased previously by the lessor and are not being leased to a
800 consumer, in connection with another lease; and
- 801 (C) One of the following occurs:
- 802 (i) The lessee receives a copy of the agreement by which the lessor
803 acquired, or proposes to acquire, the goods or the right to possession
804 and use of the goods before authenticating the lease agreement;
- 805 (ii) The lessee's approval of the agreement or of the general
806 contractual terms under which the lessor acquired or proposes to
807 acquire the goods or the right to possession and use of the goods is a
808 condition to the effectiveness of the lease contract;
- 809 (iii) The lessee, before authenticating the lease agreement, receives
810 an accurate and complete statement designating the promises and
811 warranties, and any disclaimers of warranties, limitations or
812 modifications of remedies, or liquidated damages, including those of a
813 third party, such as the manufacturer of the goods, provided to the
814 lessor by the person supplying the goods in connection with or as part
815 of the contract by which the lessor acquired the goods or the right to
816 possession and use of the goods; or
- 817 (iv) If the lease is not a consumer lease, before the lessee
818 authenticates the lease agreement, the lessor informs the lessee in
819 writing:
- 820 (I) Of the identity of the person supplying the goods to the lessor,
821 unless the lessee has selected such person and directed the lessor to
822 acquire the goods or the right to possession and use of the goods from
823 such person;

824 (II) That the lessee is entitled under this article to the promises and
825 warranties, including those of any third party, provided to the lessor
826 by the person supplying the goods in connection with or as part of the
827 contract by which the lessor acquired the goods or the right to
828 possession and use of the goods; and

829 (III) That the lessee may communicate with the person supplying
830 the goods to the lessor and receive an accurate and complete statement
831 of such promises and warranties, including any disclaimers and
832 limitations of such promises and warranties, or a statement of
833 remedies.

834 [(15) "Good faith" means honesty in fact and the observance of
835 reasonable commercial standards of fair dealing.]

836 [(16)] (15) "Goods" means all things that are movable at the time of
837 identification to a lease contract or that are fixtures. The term includes
838 the unborn young of animals. The term does not include money in
839 which the rent is to be paid, the subject of foreign exchange
840 transactions, documents, letters of credit, instruments, investment
841 property, accounts, chattel paper or general intangibles, payment
842 intangibles or minerals, or the like, including oil and gas, before
843 extraction.

844 [(17)] (16) "Information processing system" means an electronic
845 system for creating, generating, sending, receiving, storing, displaying
846 or processing information.

847 [(18)] (17) "Lease" means the transfer of the right to possession and
848 use of goods for a period in return for consideration. The term includes
849 a sublease unless the context clearly indicates otherwise. The term does
850 not include a sale, including a sale on approval or a sale or return, or
851 retention or creation of a security interest.

852 [(19)] (18) "Lease agreement" means the bargain, with respect to the
853 lease, of the lessor and the lessee in fact as found in their language or
854 inferred from other circumstances, including course of performance,

855 course of dealing, or usage of trade as provided in this article. The
856 term includes a sublease agreement unless the context clearly indicates
857 otherwise.

858 [(20)] (19) "Lease contract" means the total legal obligation resulting
859 from the lease agreement as affected by this article and other
860 applicable law. The term includes a sublease contract unless the
861 context clearly indicates otherwise.

862 [(21)] (20) "Leasehold interest" means the interest of the lessor or the
863 lessee under a lease contract.

864 [(22)] (21) "Lessee" means a person that acquires the right to
865 possession and use of goods under a lease. The term includes a
866 sublessee unless the context clearly indicates otherwise.

867 [(23)] (22) "Lessee in ordinary course of business" means a person
868 that, in good faith and without knowledge that the person's lease is in
869 violation of ownership rights, a security interest or a leasehold interest
870 of a third party in the goods, leases in the ordinary course from a
871 person in the business of selling or leasing goods of that kind for cash
872 or by exchange of other property or on secured or unsecured credit,
873 including acquiring goods or documents of title under a preexisting
874 lease contract, but not including a transfer in bulk, or as security for or
875 in total or partial satisfaction of a money debt. The term does not
876 include a pawnbroker.

877 [(24)] (23) "Lessor" means a person that transfers the right to
878 possession and use of goods under a lease. The term includes a
879 sublessor unless the context clearly indicates otherwise.

880 [(25)] (24) "Lessor's residual interest" means the lessor's interest in
881 goods after expiration, termination or cancellation of a lease contract.

882 [(26)] (25) "Lien" means a charge against or interest in goods to
883 secure payment of a debt or performance of an obligation. The term
884 does not include a security interest.

885 [(27)] (26) "Lot" means a parcel or single article that is the subject
886 matter of a separate lease or delivery, whether or not it is sufficient to
887 perform the lease contract.

888 [(28)] (27) "Merchant lessee" means a lessee that is a merchant with
889 respect to goods of the kind subject to the lease.

890 [(29)] (28) "Present value" means the amount as of a date certain of
891 one or more sums payable in the future, discounted to the date certain.
892 In determining present value, the discount is determined by the
893 interest rate specified by the parties if the rate was not manifestly
894 unreasonable at the time the transaction was entered into. Otherwise,
895 the discount is determined by a commercially reasonable rate that
896 takes into account the facts and circumstances of each case at the time
897 the transaction was entered into.

898 [(30)] (29) "Receive" means:

899 (A) With respect to goods, to take delivery; or

900 (B) With respect to a notice:

901 (i) To come to a person's attention; or

902 (ii) To be delivered to and available at a location designated by
903 agreement for the purpose of notice, or, in the absence of an agreed
904 location:

905 (I) To be delivered at the person's residence, or the person's place of
906 business through which the contract was made, or at any other place
907 held out by the person as a place for the receipt of such notices; or

908 (II) In the case of an electronic record, to come into existence in an
909 information processing system in a form capable of being processed by
910 or perceived from a system of that type, if the recipient uses, has
911 designated or holds out that system as a place for the receipt of the
912 notices.

913 [(31) "Record" means information that is inscribed on a tangible
914 medium or that is stored in an electronic or other medium and is
915 retrievable in perceivable form.]

916 [(32)] (30) "Send" means, with any costs provided for and properly
917 addressed or directed as reasonable under the circumstances or as
918 otherwise agreed, to (A) deposit in the mail or with a commercially
919 reasonable carrier, (B) deliver for transmission to or creation in another
920 location or system, or (C) take the steps necessary to initiate
921 transmission to or creation in another location or system. In addition,
922 with respect to an electronic message, the term means to initiate
923 operations that in the ordinary course will cause the record to come
924 into existence in an information processing system in a form capable of
925 being processed by or perceived from a system of that type by the
926 recipient, if the recipient uses, has designated or holds out that system
927 or address as a place for the receipt of communications of the kind.
928 Receipt within the time in which it would have arrived if properly sent
929 has the effect of a proper sending.

930 [(33)] (31) "Sublease" means a lease of goods whose right to
931 possession and use is acquired by the lessor as a lessee under an
932 existing lease.

933 [(34)] (32) "Supplier" means a person from which a lessor buys or
934 leases goods to be leased under a finance lease.

935 [(35)] (33) "Supply contract" means a contract under which a lessor
936 buys or leases goods to be leased.

937 [(36)] (34) "Termination" means the ending of a contract or a part
938 thereof by an act by a party under a power created by agreement or
939 law, or by operation of the terms of the agreement for a reason other
940 than for a default by the other party.

941 (b) The following definitions in other articles apply to this article:

T29 "Account". Section 42a-9-102(a)(2).
T30 "Between merchants". Section 42a-2-104(3).
T31 "Buyer". Section 42a-2-103(1)(a), as amended by this act.
T32 "Chattel paper". Section 42a-9-102(a)(11).
T33 "Consumer goods". Section 42a-9-102(a)(23).
T34 "Document". Section 42a-9-102(a)(30).
T35 "Entrusting". Section 42a-2-403(3).
T36 "General intangible". Section 42a-9-102(a)(42).
T37 "Instrument". Section 42a-9-102(a)(47).
T38 "Merchant". Section 42a-2-104(1).
T39 "Mortgage". Section 42a-9-102(a)(55).
T40 "Pursuant to commitment". Section 42a-9-102(a)(68).
T41 "Sale". Section 42a-2-106(1).
T42 "Sale on approval". Section 42a-2-326(1)(a).
T43 "Sale or return". Section 42a-2-326(1)(b).
T44 "Seller". Section [42a-2-103(1)(d)] 42a-2-103(1)(c), as
T45 amended by this act.

942 (c) In addition, article 1 contains general definitions and principles
943 of construction that apply throughout this article.

944 Sec. 27. Subsection (a) of section 42a-2A-704 of the general statutes is
945 repealed and the following is substituted in lieu thereof (*Effective*
946 *October 1, 2005*):

947 (a) In accordance with section [42a-1-106] 17 of this act, the remedies
948 provided in this article must be liberally administered with the
949 purpose of placing the aggrieved party in as good a position as if the
950 other party had fully performed.

951 Sec. 28. Subsection (a) of section 42a-2A-721 of the general statutes is
952 repealed and the following is substituted in lieu thereof (*Effective*
953 *October 1, 2005*):

954 (a) Except as otherwise provided with respect to damages
955 liquidated in the lease agreement under section 42a-2A-710 or
956 otherwise determined by agreement of the parties under [subdivision
957 (3) of section 42a-1-102] section 14 of this act and section 42a-2A-711, if

958 a lessor elects to retain the goods or elects to dispose of the goods and
959 the disposition is by lease agreement that for any reason does not
960 qualify for treatment under subsection (b) of section 42a-2A-720 or is
961 by sale or otherwise, the lessor may recover from the lessee as
962 damages for a default of the type described in subsection (a) or
963 subdivision (1) of subsection (c) of section 42a-2A-716 or, if agreed, for
964 other default of the lessee:

965 (1) Accrued and unpaid rent as of the date of default if the lessee
966 has never taken possession of the goods, or, if the lessee has taken
967 possession of the goods, as of the date the lessor repossesses the goods
968 or an earlier date on which the lessee makes a tender of the goods to
969 the lessor;

970 (2) The present value, as of the date determined under subdivision
971 (1) of this subsection, of the total rent for the then remaining period of
972 the original lease agreement, minus the present value as of the same
973 date of the market rent at the place where the goods are located
974 computed for the same lease term; and

975 (3) Any incidental or consequential damages allowed under section
976 42a-2A-706 or 42a-2A-707, less expenses saved in consequence of the
977 lessee's default.

978 Sec. 29. Subsection (a) of section 42a-3-103 of the general statutes is
979 repealed and the following is substituted in lieu thereof (*Effective*
980 *October 1, 2005*):

981 (a) In this article:

982 (1) "Acceptor" means a drawee who has accepted a draft.

983 (2) "Drawee" means a person ordered in a draft to make payment.

984 (3) "Drawer" means a person who signs or is identified in a draft as
985 a person ordering payment.

986 [(4) "Good faith" means honesty in fact and the observance of

987 reasonable commercial standards of fair dealing.]

988 [(5)] (4) "Maker" means a person who signs or is identified in a note
989 as a person undertaking to pay.

990 [(6)] (5) "Order" means a written instruction to pay money signed by
991 the person giving the instruction. The instruction may be addressed to
992 any person, including the person giving the instruction, or to one or
993 more persons jointly or in the alternative but not in succession. An
994 authorization to pay is not an order unless the person authorized to
995 pay is also instructed to pay.

996 [(7)] (6) "Ordinary care" in the case of a person engaged in business
997 means observance of reasonable commercial standards, prevailing in
998 the area in which the person is located, with respect to the business in
999 which the person is engaged. In the case of a bank that takes an
1000 instrument for processing for collection or payment by automated
1001 means, reasonable commercial standards do not require the bank to
1002 examine the instrument if the failure to examine does not violate the
1003 bank's prescribed procedures and the bank's procedures do not vary
1004 unreasonably from general banking usage not disapproved by this
1005 article or article 4.

1006 [(8)] (7) "Party" means a party to an instrument.

1007 [(9)] (8) "Promise" means a written undertaking to pay money
1008 signed by the person undertaking to pay. An acknowledgment of an
1009 obligation by the obligor is not a promise unless the obligor also
1010 undertakes to pay the obligation.

1011 [(10)] (9) "Prove" with respect to a fact means to meet the burden of
1012 establishing the fact, [, as defined in section 42a-1-201(8).]

1013 [(11)] (10) "Remitter" means a person who purchases an instrument
1014 from its issuer if the instrument is payable to an identified person
1015 other than the purchaser.

1016 Sec. 30. Subsection (c) of section 42a-4-104 of the general statutes is

1017 repealed and the following is substituted in lieu thereof (*Effective*
1018 *October 1, 2005*):

1019 (c) "Control" as provided in section [42a-106] 42a-7-106 and the
1020 following definitions in other articles apply to this article:

T46 "Acceptance". Section 42a-3-409.
T47 "Alteration". Section 42a-3-407.
T48 "Cashier's check". Section 42a-3-104.
T49 "Certificate of deposit". Section 42a-3-104.
T50 "Certified check". Section 42a-3-409.
T51 "Check". Section 42a-3-104.
T52 ["Good faith". Section 42a-3-103.]
T53 "Holder in due course". Section 42a-3-302.
T54 "Instrument". Section 42a-3-104.
T55 "Notice of dishonor". Section 42a-3-503.
T56 "Order". Section 42a-3-103, as amended by this act.
T57 "Ordinary care". Section 42a-3-103, as amended by this act.
T58 "Person entitled to enforce". Section 42a-3-301.
T59 "Presentment". Section 42a-3-501.
T60 "Promise". Section 42a-3-103, as amended by this act.
T61 "Prove". Section 42a-3-103, as amended by this act.
T62 "Teller's check". Section 42a-3-104.
T63 "Unauthorized signature". Section 42a-3-403.

1021 Sec. 31. Subsection (a) of section 42a-4A-105 of the general statutes is
1022 repealed and the following is substituted in lieu thereof (*Effective*
1023 *October 1, 2005*):

1024 (a) In this article:

1025 (1) "Authorized account" means a deposit account of a customer in a
1026 bank designated by the customer as a source of payment of payment
1027 orders issued by the customer to the bank. If a customer does not so

1028 designate an account, any account of the customer is an authorized
1029 account if payment of a payment order from that account is not
1030 inconsistent with a restriction on the use of that account.

1031 (2) "Bank" means a person engaged in the business of banking and
1032 includes a savings bank, savings and loan association, credit union,
1033 and trust company. A branch or separate office of a bank is a separate
1034 bank for purposes of this article.

1035 (3) "Customer" means a person, including a bank, having an account
1036 with a bank or from whom a bank has agreed to receive payment
1037 orders.

1038 (4) "Funds-transfer business day" of a receiving bank means the part
1039 of a day during which the receiving bank is open for the receipt,
1040 processing, and transmittal of payment orders and cancellations and
1041 amendments of payment orders.

1042 (5) "Funds-transfer system" means a wire-transfer network,
1043 automated clearing house, or other communication system of a
1044 clearing house or other association of banks through which a payment
1045 order by a bank may be transmitted to the bank to which the order is
1046 addressed.

1047 [(6) "Good faith" means honesty in fact and the observance of
1048 reasonable commercial standards of fair dealing.]

1049 [(7)] (6) "Prove" with respect to a fact means to meet the burden of
1050 establishing the fact. [(Section 42a-1-201(8)).]

1051 Sec. 32. Subsection (a) of section 42a-4A-106 of the general statutes is
1052 repealed and the following is substituted in lieu thereof (*Effective*
1053 *October 1, 2005*):

1054 (a) The time of receipt of a payment order or communication
1055 cancelling or amending a payment order is determined by the rules
1056 applicable to receipt of a notice stated in [subsection (27) of section 42a-
1057 1-201] section 42a-1-202, as amended by this act. A receiving bank may

1058 fix a cutoff time or times on a funds-transfer business day for the
1059 receipt and processing of payment orders and communications
1060 cancelling or amending payment orders. Different cutoff times may
1061 apply to payment orders, cancellations, or amendments, or to different
1062 categories of payment orders, cancellations, or amendments. A cutoff
1063 time may apply to senders generally or different cutoff times may
1064 apply to different senders or categories of payment orders. If a
1065 payment order or communication cancelling or amending a payment
1066 order is received after the close of a funds-transfer business day or
1067 after the appropriate cutoff time on a funds-transfer business day, the
1068 receiving bank may treat the payment order or communication as
1069 received at the opening of the next funds-transfer business day.

1070 Sec. 33. Subsection (b) of section 42a-4A-204 of the general statutes is
1071 repealed and the following is substituted in lieu thereof (*Effective*
1072 *October 1, 2005*):

1073 (b) Reasonable time under subsection (a) of this section may be fixed
1074 by agreement as stated in subsection [(1) of section 42a-1-204] (b) of
1075 section 14 of this act, but the obligation of a receiving bank to refund
1076 payment as stated in subsection (a) of this section may not otherwise
1077 be varied by agreement.

1078 Sec. 34. Subsection (a) of section 42a-5-102 of the general statutes is
1079 repealed and the following is substituted in lieu thereof (*Effective*
1080 *October 1, 2005*):

1081 (a) In this article:

1082 (1) "Adviser" means a person who, at the request of the issuer, a
1083 confirmer or another adviser, notifies or requests another adviser to
1084 notify the beneficiary that a letter of credit has been issued, confirmed
1085 or amended.

1086 (2) "Applicant" means a person at whose request or for whose
1087 account a letter of credit is issued. The term includes a person who
1088 requests an issuer to issue a letter of credit on behalf of another if the

1089 person making the request undertakes an obligation to reimburse the
1090 issuer.

1091 (3) "Beneficiary" means a person who under the terms of a letter of
1092 credit is entitled to have its complying presentation honored. The term
1093 includes a person to whom drawing rights have been transferred
1094 under a transferable letter of credit.

1095 (4) "Confirmer" means a nominated person who undertakes, at the
1096 request or with the consent of the issuer, to honor a presentation under
1097 a letter of credit issued by another.

1098 (5) "Dishonor" of a letter of credit means failure timely to honor or
1099 to take an interim action, such as acceptance of a draft, that may be
1100 required by the letter of credit.

1101 (6) "Document" means a draft or other demand, document of title,
1102 investment security, certificate, invoice or other record, statement or
1103 representation of fact, law, right or opinion [(i)] (A) which is presented
1104 in a written or other medium permitted by the letter of credit or, unless
1105 prohibited by the letter of credit, by the standard practice referred to in
1106 subsection (e) of section 42a-5-108, and [(ii)] (B) which is capable of
1107 being examined for compliance with the terms and conditions of the
1108 letter of credit. A document may not be oral.

1109 [(7) "Good faith" means honesty in fact in the conduct or transaction
1110 concerned and the observance of reasonable commercial standards of
1111 fair dealing.]

1112 [(8)] (Z) "Honor" of a letter of credit means performance of the
1113 issuer's undertaking in the letter of credit to pay or deliver an item of
1114 value. Unless the letter of credit otherwise provides, "honor" occurs
1115 [(i)] (A) upon payment, [(ii)] (B) if the letter of credit provides for
1116 acceptance, upon acceptance of a draft and, at maturity, its payment,
1117 or [(iii)] (C) if the letter of credit provides for incurring a deferred
1118 obligation, upon incurring the obligation and, at maturity, its
1119 performance.

1120 [(9)] (8) "Issuer" means a bank or other person that issues a letter of
1121 credit, but does not include an individual who makes an engagement
1122 for personal, family or household purposes.

1123 [(10)] (9) "Letter of credit" means a definite undertaking that satisfies
1124 the requirements of section 42a-5-104 by an issuer to a beneficiary at
1125 the request or for the account of an applicant or, in the case of a
1126 financial institution, to itself or for its own account, to honor a
1127 documentary presentation by payment or delivery of an item of value.

1128 [(11)] (10) "Nominated person" means a person whom the issuer [(i)]
1129 (A) designates or authorizes to pay, accept, negotiate or otherwise give
1130 value under a letter of credit, and [(ii)] (B) undertakes by agreement or
1131 custom and practice to reimburse.

1132 [(12)] (11) "Presentation" means delivery of a document to an issuer
1133 or nominated person for honor or giving of value under a letter of
1134 credit.

1135 [(13)] (12) "Presenter" means a person making a presentation as or
1136 on behalf of a beneficiary or nominated person.

1137 [(14)] "Record" means information that is inscribed on a tangible
1138 medium, or that is stored in an electronic or other medium and is
1139 retrievable in perceivable form.]

1140 [(15)] (13) "Successor of a beneficiary" means a person who succeeds
1141 to substantially all of the rights of a beneficiary by operation of law,
1142 including a corporation with or into which the beneficiary has been
1143 merged or consolidated, an administrator, executor, personal
1144 representative, trustee in bankruptcy, debtor in possession, liquidator
1145 and receiver.

1146 Sec. 35. Subsection (c) of section 42a-5-103 of the general statutes is
1147 repealed and the following is substituted in lieu thereof (*Effective*
1148 *October 1, 2005*):

1149 (c) With the exception of this subsection, subsections (a) and (d) of

1150 this section, subdivisions (8) and (9) [and (10)] of subsection (a) of
1151 section 42a-5-102, as amended by this act, subsection (d) of section 42a-
1152 5-106 and subsection (d) of section 42a-5-114, and except to the extent
1153 prohibited in [subsection (3) of section 42a-1-102] section 14 of this act
1154 and subsection (d) of section 42a-5-117, the effect of this article may be
1155 varied by agreement or by a provision stated or incorporated by
1156 reference in an undertaking. A term in an agreement or undertaking
1157 generally excusing liability or generally limiting remedies for failure to
1158 perform obligations is not sufficient to vary obligations prescribed by
1159 this article.

1160 Sec. 36. Subsection (g) of section 42a-5-108 of the general statutes is
1161 repealed and the following is substituted in lieu thereof (*Effective*
1162 *October 1, 2005*):

1163 (g) If an undertaking constituting a letter of credit under
1164 subdivision [(10)] (9) of subsection (a) of section 42a-5-102, as amended
1165 by this act, contains nondocumentary conditions, an issuer shall
1166 disregard the nondocumentary conditions and treat them as if they
1167 were not stated.

1168 Sec. 37. Subsection (a) of section 42a-8-102 of the general statutes is
1169 repealed and the following is substituted in lieu thereof (*Effective*
1170 *October 1, 2005*):

1171 (a) In this article:

1172 (1) "Adverse claim" means a claim that a claimant has a property
1173 interest in a financial asset and that it is a violation of the rights of the
1174 claimant for another person to hold, transfer or deal with the financial
1175 asset.

1176 (2) "Bearer form", as applied to a certificated security, means a form
1177 in which the security is payable to the bearer of the security certificate
1178 according to its terms but not by reason of an endorsement.

1179 (3) "Broker" means a person defined as a broker or dealer under the

1180 federal securities laws, but without excluding a bank acting in that
1181 capacity.

1182 (4) "Certificated security" means a security that is represented by a
1183 certificate.

1184 (5) "Clearing corporation" means:

1185 [(i)] (A) A person that is registered as a "clearing agency" under the
1186 federal securities laws;

1187 [(ii)] (B) A federal reserve bank; or

1188 [(iii)] (C) Any other person that provides clearance or settlement
1189 services with respect to financial assets that would require it to register
1190 as a clearing agency under the federal securities laws but for an
1191 exclusion or exemption from the registration requirement, if its
1192 activities as a clearing corporation, including promulgation of rules,
1193 are subject to regulation by a federal or state governmental authority.

1194 (6) "Communicate" means to:

1195 [(i)] (A) Send a signed writing; or

1196 [(ii)] (B) Transmit information by any mechanism agreed upon by
1197 the persons transmitting and receiving the information.

1198 (7) "Endorsement" means a signature that alone or accompanied by
1199 other words is made on a security certificate in registered form or on a
1200 separate document for the purpose of assigning, transferring or
1201 redeeming the security or granting a power to assign, transfer or
1202 redeem it.

1203 (8) "Entitlement holder" means a person identified in the records of
1204 a securities intermediary as the person having a security entitlement
1205 against the securities intermediary. If a person acquires a security
1206 entitlement by virtue of [section 42a-8-501(b)(2) or (3)] subdivision (2)
1207 or (3) of subsection (b) of section 42a-8-501, that person is the

1208 entitlement holder.

1209 (9) "Entitlement order" means a notification communicated to a
1210 securities intermediary directing transfer or redemption of a financial
1211 asset to which the entitlement holder has a security entitlement.

1212 (10) "Financial asset", except as otherwise provided in section 42a-8-
1213 103, means: [(i)] (A) A security; [(ii)] (B) an obligation of a person or a
1214 share, participation or other interest in a person or in property or an
1215 enterprise of a person, which is, or is of a type, dealt in or traded on
1216 financial markets, or which is recognized in any area in which it is
1217 issued or dealt in as a medium for investment; or [(iii)] (C) any
1218 property that is held by a securities intermediary for another person in
1219 a securities account if the securities intermediary has expressly agreed
1220 with the other person that the property is to be treated as a financial
1221 asset under this article. As context requires, the term means either the
1222 interest itself or the means by which a person's claim to it is evidenced,
1223 including a certificated or uncertificated security, a security certificate,
1224 or a security entitlement.

1225 [(11) "Good faith", for purposes of the obligation of good faith in the
1226 performance or enforcement of contracts or duties within this article,
1227 means honesty in fact and the observance of reasonable commercial
1228 standards of fair dealing.]

1229 [(12)] (11) "Instruction" means a notification communicated to the
1230 issuer of an uncertificated security which directs that the transfer of the
1231 security be registered or that the security be redeemed.

1232 [(13)] (12) "Registered form", as applied to a certificated security,
1233 means a form in which:

1234 [(i)] (A) The security certificate specifies a person entitled to the
1235 security; and

1236 [(ii)] (B) A transfer of the security may be registered upon books
1237 maintained for that purpose by or on behalf of the issuer, or the

1238 security certificate so states.

1239 [(14)] (13) "Securities intermediary" means:

1240 [(i)] (A) A clearing corporation; or

1241 [(ii)] (B) A person, including a bank or broker, that in the ordinary
1242 course of its business maintains securities accounts for others and is
1243 acting in that capacity.

1244 [(15)] (14) "Security", except as otherwise provided in section 42a-8-
1245 103, means an obligation of an issuer or a share, participation, or other
1246 interest in an issuer or in property or an enterprise of an issuer:

1247 [(i)] (A) Which is represented by a security certificate in bearer or
1248 registered form, or the transfer of which may be registered upon books
1249 maintained for that purpose by or on behalf of the issuer;

1250 [(ii)] (B) Which is one of a class or series or by its terms is divisible
1251 into a class or series of shares, participations, interests or obligations;
1252 and

1253 [(iii)] (C) Which:

1254 [(A)] (i) Is, or is of a type, dealt in or traded on securities exchanges
1255 or securities markets; or

1256 [(B)] (ii) Is a medium for investment and by its terms expressly
1257 provides that it is a security governed by this article.

1258 [(16)] (15) "Security certificate" means a certificate representing a
1259 security.

1260 [(17)] (16) "Security entitlement" means the rights and property
1261 interest of an entitlement holder with respect to a financial asset
1262 specified in part 5.

1263 [(18)] (17) "Uncertificated security" means a security that is not
1264 represented by a certificate.

1265 Sec. 38. Section 42a-8-111 of the general statutes is repealed and the
1266 following is substituted in lieu thereof (*Effective October 1, 2005*):

1267 A rule adopted by a clearing corporation governing rights and
1268 obligations among the clearing corporation and its participants in the
1269 clearing corporation is effective even if the rule conflicts with this
1270 article, section 13 of this act and sections [42a-1-105,] 42a-4-104(a), 42a-
1271 9-103a, 42a-9-105, 42a-9-106, 42a-9-115, 42a-9-116, 42a-9-203(1), 42a-9-
1272 301(1), 42a-9-302(1), 42a-9-304, 42a-9-305, 42a-9-306, 42a-9-309 and 42a-
1273 9-312 and affects another party who does not consent to the rule.

1274 Sec. 39. Subdivision (43) of subsection (a) of section 42a-9-102 of the
1275 general statutes is repealed and the following is substituted in lieu
1276 thereof (*Effective October 1, 2005*):

1277 (43) "Good faith" [means honesty in fact and the observance of
1278 reasonable commercial standards of fair dealing] has the same
1279 meaning as provided in subdivision (20) of subsection (b) of section
1280 42a-1-201, as amended by this act.

1281 Sec. 40. Section 1-1a of the general statutes is repealed and the
1282 following is substituted in lieu thereof (*Effective October 1, 2005*):

1283 Unless the context of any statute requires a different interpretation,
1284 all words and terms appearing in any statute and relating to security in
1285 personal property shall be construed to mean their counterparts in
1286 [subsection (37)] subdivision (35) of subsection (b) of section 42a-1-201,
1287 as amended by this act, and chapter 748. In particular "chattel
1288 mortgage", "conditional sale contract" or "lien" on personal property,
1289 except a lien of the type to which chapter 748 does not apply under
1290 subdivision (2) of subsection (d) of section 42a-9-109, shall be
1291 construed to mean "security interest"; "mortgagor" and "conditional
1292 vendee" shall be construed to mean "debtor"; "mortgagee" and
1293 "conditional vendor" shall be construed to mean "secured party".

1294 Sec. 41. Subsection (b) of section 1-268 of the general statutes is
1295 repealed and the following is substituted in lieu thereof (*Effective*

1296 *October 1, 2005*):

1297 (b) Sections 1-266 to 1-286, inclusive, do not apply to a transaction to
1298 the extent it is governed by:

1299 (1) A law governing the creation and execution of wills, codicils or
1300 testamentary trusts;

1301 (2) Except to the extent provided in section 1-281, as amended by
1302 this act, the Uniform Commercial Code, other than [sections 42a-1-107
1303 and 42a-1-206,] section 18 of this act and articles 2 and 2A of title 42a;
1304 or

1305 (3) Sections 47-10, 47-12, 47-12a, 47-14g, 47-14j, 47-14k, 47-15, 47-16,
1306 47-17, 47-18a and 47-19.

1307 Sec. 42. Subsection (d) of section 1-281 of the general statutes is
1308 repealed and the following is substituted in lieu thereof (*Effective*
1309 *October 1, 2005*):

1310 (d) Except as otherwise agreed, a person having control of a
1311 transferable record is the holder, as defined in subdivision [(20)] (21) of
1312 subsection (b) of section 42a-1-201, as amended by this act, or other
1313 similar law, of the transferable record and has the same rights and
1314 defenses as a holder of an equivalent record or writing under the
1315 Uniform Commercial Code, or other similar law, including, if the
1316 applicable statutory requirements under subsection (a) of section 42a-
1317 3-302 or section 42a-7-501 or 42a-9-308, or other similar law, are
1318 satisfied, the rights and defenses of a holder in due course, a holder to
1319 which a negotiable document of title has been duly negotiated or a
1320 purchaser, respectively. Delivery, possession and endorsement are not
1321 required to obtain or exercise any of the rights under this subsection.

1322 Sec. 43. Subparagraph (C) of subdivision (70) of section 12-81 of the
1323 general statutes is repealed and the following is substituted in lieu
1324 thereof (*Effective October 1, 2005*):

1325 (C) The state and the municipality and district shall hold a security

1326 interest, as defined in subdivision [(37)] (35) of subsection (b) of section
1327 42a-1-201, as amended by this act, in any machinery or equipment
1328 which is exempt from taxation pursuant to this subdivision, in an
1329 amount equal to the tax revenue reimbursed or lost, as the case may
1330 be, which shall be subordinate to any purchase money security
1331 interest, as defined in section 42a-9-103a. Such security interest shall be
1332 enforceable against the taxpayer for a period of five years after the last
1333 assessment year in which such exemption was received in any case in
1334 which the business organization ceases all business operations or
1335 moves its business operations entirely out of this state. Any assessor
1336 who has granted an exemption under this subdivision shall provide
1337 written notification to the secretary of the cessation of such operations
1338 or the move of such operations entirely out of this state. Such
1339 notification may be made at any time after the October first of the last
1340 assessment year in which such exemption is granted and before the
1341 September thirtieth that is five years after the conclusion of said
1342 assessment year. Upon receiving such notification and complying with
1343 the provisions of section 12-35a, the state shall have a lien upon the
1344 machinery or equipment situated in this state and owned by the
1345 person that ceased all business operations or moved such operations
1346 entirely out of this state. Notwithstanding the provisions of section 12-
1347 35a, the total amount of the reimbursement made by the state for the
1348 property tax exemptions granted to the person under the provisions of
1349 this subdivision, shall be deemed to be the amount of the tax which
1350 such person failed to pay. Notwithstanding said section 12-35a, the
1351 information required to be included in the notice of lien for said tax
1352 shall be as follows: (i) The owner of the property upon which the lien
1353 is claimed, (ii) the business address or residence address of such
1354 owner, (iii) the specific property claimed to be subject to such lien, (iv)
1355 the location of such property at the time it was last made tax-exempt
1356 pursuant to this subdivision, (v) the total amount of the
1357 reimbursement made by the state for the property tax exemptions
1358 granted to such owner under the provisions of this subdivision, and
1359 (vi) the tax period or periods for which such lien is claimed. If more
1360 than one agency of the state perfects such a notice of lien on the same

1361 day, the priority of such liens shall be determined by the time of day
1362 such liens were perfected, and if perfected at the same time, the lien for
1363 the highest amount shall have priority. In addition to the other
1364 remedies provided in this subdivision, the Attorney General, upon
1365 request of the secretary, may bring a civil action in a court of
1366 competent jurisdiction to recover the amount of tax revenue
1367 reimbursed by the state from any person who received an exemption
1368 under this subdivision.

1369 Sec. 44. Subparagraph (C) of subdivision (72) of section 12-81 of the
1370 general statutes is repealed and the following is substituted in lieu
1371 thereof (*Effective October 1, 2005*):

1372 (C) Any person claiming the exemption provided under this
1373 subdivision for machinery or equipment shall not be eligible to claim
1374 the exemption provided under subdivision (60) of this section or
1375 subdivision (70) of this section, as amended by this act, for the same
1376 machinery or equipment. The state and the municipality and district
1377 shall hold a security interest, as defined in subdivision [(37)] (35) of
1378 subsection (b) of section 42a-1-201, as amended by this act, in any
1379 machinery or equipment which is exempt from taxation pursuant to
1380 this subdivision, in an amount equal to the tax revenue reimbursed or
1381 lost, as the case may be, which shall be subordinate to any purchase
1382 money security interest, as defined in section 42a-9-103a. Such security
1383 interest shall be enforceable against the claimant for a period of five
1384 years after the last assessment year in which such exemption was
1385 received in any case in which such person ceases all manufacturing or
1386 biotechnology operations or moves such manufacturing or
1387 biotechnology operations entirely out of this state. Any assessor who
1388 has granted an exemption under this subdivision shall provide written
1389 notification to the secretary of the cessation of such operations or the
1390 move of such operations entirely out of this state. Such notification
1391 may be made at any time after the October first of the last assessment
1392 year in which such exemption is granted and before the September
1393 thirtieth that is five years after the conclusion of said assessment year.
1394 Upon receiving such notification and complying with the provisions of

1395 section 12-35a, the state shall have a lien upon the machinery or
1396 equipment situated in this state and owned by the person that ceased
1397 all business operations or moved such operations entirely out of this
1398 state. Notwithstanding the provisions of section 12-35a, the total
1399 amount of the reimbursement made by the state for the property tax
1400 exemptions granted to the person under the provisions of this
1401 subdivision, shall be deemed to be the amount of the tax which such
1402 person failed to pay. Notwithstanding said section 12-35a, the
1403 information required to be included in the notice of lien for such tax
1404 shall be as follows: (i) The owner of the property upon which the lien
1405 is claimed, (ii) the business address or residence address of such
1406 owner, (iii) the specific property claimed to be subject to such lien, (iv)
1407 the location of such property at the time it was last made tax-exempt
1408 pursuant to this subdivision, (v) the total amount of the
1409 reimbursement made by the state for the property tax exemptions
1410 granted to such owner under the provisions of this subdivision, and
1411 (vi) the tax period or periods for which such lien is claimed. If more
1412 than one agency of the state perfects such a notice of lien on the same
1413 day, the priority of such liens shall be determined by the time of day
1414 such liens were perfected, and if perfected at the same time, the lien for
1415 the highest amount shall have priority. In addition to the other
1416 remedies provided in this subdivision, the Attorney General, upon
1417 request of the secretary, may bring a civil action in a court of
1418 competent jurisdiction to recover the amount of tax revenue
1419 reimbursed by the state from any person who received an exemption
1420 under this subdivision. The following shall not be eligible for the
1421 exemption provided under this subdivision: (I) A public service
1422 company, as defined in section 16-1; and (II) any provider, directly or
1423 indirectly, of electricity, oil, water or gas.

1424 Sec. 45. Subdivision (12) of subsection (a) of section 12-407 of the
1425 general statutes is repealed and the following is substituted in lieu
1426 thereof (*Effective October 1, 2005*):

1427 (12) "Retailer" includes: (A) Every person engaged in the business of
1428 making sales at retail or in the business of making retail sales at

1429 auction of tangible personal property owned by the person or others;
1430 (B) every person engaged in the business of making sales for storage,
1431 use or other consumption or in the business of making sales at auction
1432 of tangible personal property owned by the person or others for
1433 storage, use or other consumption; (C) every operator, as defined in
1434 subdivision (18) of this subsection; (D) every seller rendering any
1435 service described in subdivision (2) of this subsection; (E) every person
1436 under whom any salesman, representative, peddler or canvasser
1437 operates in this state, or from whom such salesman, representative,
1438 peddler or canvasser obtains the tangible personal property that is
1439 sold; (F) every person with whose assistance any seller is enabled to
1440 solicit orders within this state; (G) every person making retail sales
1441 from outside this state to a destination within this state and not
1442 maintaining a place of business in this state who engages in regular or
1443 systematic solicitation of sales of tangible personal property in this
1444 state (i) by the display of advertisements on billboards or other
1445 outdoor advertising in this state, (ii) by the distribution of catalogs,
1446 periodicals, advertising flyers or other advertising by means of print,
1447 radio or television media, or (iii) by mail, telegraphy, telephone,
1448 computer data base, cable, optic, microwave or other communication
1449 system, for the purpose of effecting retail sales of tangible personal
1450 property, provided such person has made one hundred or more retail
1451 sales from outside this state to destinations within this state during the
1452 twelve-month period ended on the September thirtieth immediately
1453 preceding the monthly or quarterly period with respect to which such
1454 person's liability for tax under this chapter is determined; (H) any
1455 person owned or controlled, either directly or indirectly, by a retailer
1456 engaged in business in this state which is the same as or similar to the
1457 line of business in which such person so owned or controlled is
1458 engaged; (I) any person owned or controlled, either directly or
1459 indirectly, by the same interests that own or control, either directly or
1460 indirectly, a retailer engaged in business in this state which is the same
1461 as or similar to the line of business in which such person so owned or
1462 controlled is engaged; (J) any assignee of a person engaged in the
1463 business of leasing tangible personal property to others, where leased

1464 property of such person which is subject to taxation under this chapter
1465 is situated within this state and such assignee has a security interest, as
1466 defined in [subsection (37)] subdivision (35) of subsection (b) of section
1467 42a-1-201, as amended by this act, in such property; and (K) every
1468 person making retail sales of items of tangible personal property from
1469 outside this state to a destination within this state and not maintaining
1470 a place of business in this state who repairs or services such items,
1471 under a warranty, in this state, either directly or indirectly through an
1472 agent, independent contractor or subsidiary.

1473 Sec. 46. Subparagraph (A) of subdivision (15) of subsection (a) of
1474 section 12-407 of the general statutes is repealed and the following is
1475 substituted in lieu thereof (*Effective October 1, 2005*):

1476 (15) (A) "Engaged in business in the state" means and includes but
1477 shall not be limited to the following acts or methods of transacting
1478 business: (i) Selling in this state, or any activity in this state in
1479 connection with selling in this state, tangible personal property for use,
1480 storage or consumption within the state; (ii) engaging in the transfer
1481 for a consideration of the occupancy of any room or rooms in a hotel or
1482 lodging house for a period of thirty consecutive calendar days or less;
1483 (iii) rendering in this state any service described in any of the
1484 subparagraphs of subdivision (2) of this subsection; (iv) maintaining,
1485 occupying or using, permanently or temporarily, directly or indirectly,
1486 through a subsidiary or agent, by whatever name called, any office,
1487 place of distribution, sales or sample room or place, warehouse or
1488 storage point or other place of business or having any representative,
1489 agent, salesman, canvasser or solicitor operating in this state for the
1490 purpose of selling, delivering or taking orders; (v) notwithstanding the
1491 fact that retail sales are made from outside this state to a destination
1492 within this state and that a place of business is not maintained in this
1493 state, engaging in regular or systematic solicitation of sales of tangible
1494 personal property in this state by the display of advertisements on
1495 billboards or other outdoor advertising in this state, by the distribution
1496 of catalogs, periodicals, advertising flyers or other advertising by
1497 means of print, radio or television media, or by mail, telegraphy,

1498 telephone, computer data base, cable, optic, microwave or other
1499 communication system, for the purpose of effecting retail sales of
1500 tangible personal property, provided one hundred or more retail sales
1501 from outside this state to destinations within this state are made
1502 during the twelve-month period ended on the September thirtieth
1503 immediately preceding the monthly or quarterly period with respect to
1504 which liability for tax under this chapter is determined; (vi) being
1505 owned or controlled, either directly or indirectly, by a retailer engaged
1506 in business in this state which is the same as or similar to the line of
1507 business in which the retailer so owned or controlled is engaged; (vii)
1508 being owned or controlled, either directly or indirectly, by the same
1509 interests that own or control, either directly or indirectly, a retailer
1510 engaged in business in this state which is the same as or similar to the
1511 line of business in which the retailer so owned or controlled is
1512 engaged; (viii) being the assignee of a person engaged in the business
1513 of leasing tangible personal property to others, where leased property
1514 of such person is situated within this state and such assignee has a
1515 security interest, as defined in [subsection (37)] subdivision (35) of
1516 subsection (b) of section 42a-1-201, as amended by this act, in such
1517 property; and (ix) notwithstanding the fact that retail sales of items of
1518 tangible personal property are made from outside this state to a
1519 destination within this state and that a place of business is not
1520 maintained in this state, repairing or servicing such items, under a
1521 warranty, in this state, either directly or indirectly through an agent,
1522 independent contractor or subsidiary.

1523 Sec. 47. Subdivision (8) of section 14-165 of the general statutes is
1524 repealed and the following is substituted in lieu thereof (*Effective*
1525 *October 1, 2005*):

1526 (8) "Security interest" means a "security interest" as defined in
1527 subdivision [(37)] (35) of subsection (b) of section 42a-1-201, as
1528 amended by this act.

1529 Sec. 48. Section 14-167 of the general statutes is repealed and the
1530 following is substituted in lieu thereof (*Effective October 1, 2005*):

1531 This chapter does not apply to or affect: (1) A lien given by statute
1532 or rule of law to a supplier of services or materials for the vehicle; (2) a
1533 lien given by statute to the United States, this state or any political
1534 subdivision of this state; (3) a security interest in a vehicle created by a
1535 manufacturer or dealer who holds the vehicle for sale, but a buyer in
1536 [the] ordinary course of business, as defined in subdivision (9) of
1537 subsection (b) of section 42a-1-201, as amended by this act, takes free of
1538 the security interest, as stated in section 42a-9-320; or (4) a security
1539 interest in a vehicle that is inventory held for sale or lease by a person
1540 or leased by that person as lessor and that person is in the business of
1541 selling vehicles, as provided in subsection (d) of section 42a-9-311.

1542 Sec. 49. Subsection (c) of section 36a-770 of the general statutes is
1543 repealed and the following is substituted in lieu thereof (*Effective*
1544 *October 1, 2005*):

1545 (c) Definitions. As used in sections 36a-770 to 36a-788, inclusive, 42-
1546 100b and 42-100c, unless the context otherwise requires:

1547 (1) "Boat" means any watercraft, as defined in section 22a-248, other
1548 than a seaplane, used or capable of being used as a means of
1549 transportation on water, by any power including muscular.

1550 (2) "Cash price" means the total amount in dollars at which the seller
1551 and buyer agreed the seller would transfer unqualified title to the
1552 goods, if the transaction were a cash sale instead of a sale under a retail
1553 installment contract.

1554 (3) "Commercial vehicle" means any domestic or foreign truck or
1555 truck tractor of ten thousand or more pounds gross vehicular weight
1556 or any trailer or semitrailer designed for use in connection with any
1557 truck or truck tractor of ten thousand or more pounds gross vehicular
1558 weight and which is not used primarily for personal, family or
1559 household use.

1560 (4) "Filing fee" means the fee prescribed by law for filing, recording
1561 or otherwise perfecting and releasing or satisfying a security interest,

1562 as defined in subdivision [(37)] (35) of subsection (b) of section 42a-1-
1563 201, as amended by this act, retained or created by a retail installment
1564 contract or installment loan contract.

1565 (5) "Finance charge" means the amount in excess of the cash price of
1566 the goods agreed upon by the retail seller and the retail buyer, to be
1567 paid by the retail buyer for the privilege of purchasing the goods
1568 under the retail installment contract or installment loan contract.

1569 (6) "Goods" means (A) "consumer goods", as defined in subdivision
1570 (23) of subsection (a) of section 42a-9-102 and motor vehicles included
1571 under such definition, having an aggregate cash price of fifty thousand
1572 dollars or less, and (B) "equipment", as defined in subdivision (33) of
1573 subsection (a) of section 42a-9-102, having an aggregate cash price of
1574 sixteen thousand dollars or less, provided such consumer goods or
1575 such equipment is included in one retail installment contract or
1576 installment loan contract.

1577 (7) "Installment loan contract" means any agreement made in this
1578 state to repay in installments the amount loaned or advanced to a retail
1579 buyer for the purpose of paying the retail purchase price of goods and
1580 by virtue of which a security interest, as defined in subdivision [(37)]
1581 (35) of subsection (b) of section 42a-1-201, as amended by this act, is
1582 taken in the goods for the payment of the amount loaned or advanced.
1583 For purposes of this subdivision, "installment loan contract" does not
1584 include agreements to repay in installments loans made by the United
1585 States or any department, agency or instrumentality thereof.

1586 (8) "Lender" means a person who extends or offers to extend credit
1587 to a retail buyer under an installment loan contract.

1588 (9) A retail installment contract or installment loan contract is "made
1589 in this state" if: (A) An offer or agreement is made in Connecticut by a
1590 retail seller or a lender to sell or extend credit to a resident retail buyer,
1591 including, but not limited to, any verbal or written solicitation or
1592 communication to sell or extend credit originating outside the state of
1593 Connecticut but forwarded to and received in Connecticut by a

1594 resident retail buyer; or (B) an offer to buy or an application for
1595 extension of credit, or an acceptance of an offer to buy or to extend
1596 credit, is made in Connecticut by a resident retail buyer, regardless of
1597 the situs of the contract which may be specified therein, including, but
1598 not limited to, any verbal or written solicitation or communication to
1599 buy or to have credit extended, originating within the state of
1600 Connecticut but forwarded to and received by a retail seller or a lender
1601 outside the state of Connecticut. For purposes of this subdivision, a
1602 "resident retail buyer" means a retail buyer who is a resident of the
1603 state of Connecticut.

1604 (10) "Motor vehicle" means any device in, upon or by which any
1605 person or property is or may be transported or drawn upon a highway
1606 by any power other than muscular. For purposes of this subdivision,
1607 "motor vehicle" does not include self-propelled wheelchairs and
1608 invalid tricycles, tractors, power shovels, road machinery, implements
1609 of husbandry and other agricultural machinery, or other machinery
1610 not designed primarily for highway transportation but which may
1611 incidentally transport persons or property on a highway, or devices
1612 which move upon or are guided by a track or travel through the air.

1613 (11) "Retail buyer" means a person who buys or agrees to buy one or
1614 more articles of goods from a retail seller not for the purpose of resale
1615 or lease to others in the course of business and who executes a retail
1616 installment contract or an installment loan contract in connection
1617 therewith.

1618 (12) "Retail installment contract" means any security agreement, as
1619 defined in subdivision (73) of subsection (a) of section 42a-9-102, made
1620 in this state, including one in the form of a mortgage, conditional sale
1621 contract or other instrument evidencing an agreement to pay the retail
1622 purchase price of goods, or any part thereof, in installments over a
1623 period of time and pursuant to which a security interest, as defined in
1624 subdivision [(37)] (35) of subsection (b) of section 42a-1-201, as
1625 amended by this act, is retained or taken by the retail seller for the
1626 payment of the amount of such retail installment contract. For

1627 purposes of this subdivision, "retail installment contract" does not
1628 include a rent-to-own agreement, as defined in section 42-240, as
1629 amended by this act.

1630 (13) "Retail installment sale" means any sale evidenced by a retail
1631 installment contract or installment loan contract wherein a retail buyer
1632 buys goods from a retail seller at a time sale price payable in two or
1633 more installments. The cash price of the goods, the amount, if any,
1634 included for other itemized charges which are included in the amount
1635 of the credit extended but which are not part of the finance charge
1636 under sections 36a-675 to 36a-685, inclusive, and the finance charge
1637 shall together constitute the time sale price. For purposes of this
1638 subdivision, "retail installment sale" does not include a rent-to-own
1639 agreement, as defined in section 42-240, as amended by this act.

1640 (14) "Retail seller" means a person who sells or agrees to sell one or
1641 more articles of goods under a retail installment contract to a retail
1642 buyer.

1643 (15) "Sales finance company" means any person engaging in this
1644 state in the business, in whole or in part, of acquiring retail installment
1645 contracts from retail sellers or installment loan contracts from holders
1646 thereof, by purchase, discount or pledge, or by loan or advance to the
1647 holder of either on the security thereof, or otherwise.

1648 Sec. 50. Subsection (d) of section 42-221 of the general statutes is
1649 repealed and the following is substituted in lieu thereof (*Effective*
1650 *October 1, 2005*):

1651 (d) The consumer may waive a warranty required pursuant to this
1652 section only as to a particular defect in the vehicle which the dealer has
1653 disclosed to the consumer as being defective. No such waiver shall be
1654 effective unless such waiver: (1) Is in writing; (2) is conspicuous, as
1655 defined in subdivision (10) of subsection (b) of section 42a-1-201, as
1656 amended by this act, and is in plain language; (3) identifies the
1657 particular disclosed defect in the vehicle for which such warranty is to
1658 be waived; (4) states what warranty, if any, shall apply to such

1659 disclosed defect; and (5) is signed by both the customer and the dealer
1660 prior to sale.

1661 Sec. 51. Subdivision (4) of section 42-240 of the general statutes is
1662 repealed and the following is substituted in lieu thereof (*Effective*
1663 *October 1, 2005*):

1664 (4) "Rent-to-own agreement" means an agreement for the use of
1665 personal property by an individual primarily for personal, family or
1666 household purposes, for an initial period of four months or less,
1667 whether or not there is any obligation beyond the initial period, that is
1668 automatically renewable with each payment and that permits the
1669 consumer to become the owner of the property. Any rent-to-own
1670 agreement which complies with sections 42-240 to 42-253, inclusive,
1671 shall not be construed to be, nor be governed by the laws of this state
1672 regulating, any of the following:

1673 (A) A "retail installment contract" as defined in section 36a-770, as
1674 amended by this act;

1675 (B) A "security interest" as that term is defined in [section 42a-1-
1676 201(37)] subdivision (35) of subsection (b) of section 42a-1-201, as
1677 amended by this act.

1678 Sec. 52. Section 42-252 of the general statutes is repealed and the
1679 following is substituted in lieu thereof (*Effective October 1, 2005*):

1680 A lessor shall have the same obligations as a seller under [sections
1681 42a-1-203, 42a-2-302, subsection (b) of section 42a-2-103 and sections]
1682 section 16 of this act and sections 42a-2-302 and 42a-2-312 to 42a-2-318,
1683 inclusive, and the same obligations as a creditor under sections 36a-645
1684 to 36a-647, inclusive. Any rent-to-own agreement shall be subject to the
1685 provisions of section 52-572g.

1686 Sec. 53. Subsection (b) of section 42-391 of the general statutes is
1687 repealed and the following is substituted in lieu thereof (*Effective*
1688 *October 1, 2005*):

1689 (b) The following terms used in sections 42-270 to 42-271a, inclusive,
1690 and 42-390 to 42-434, inclusive, have the meanings ascribed in the
1691 Uniform Commercial Code:

T64 "Accession". Section 42a-9-102(a).
T65 "Agreement". Section [42a-1-201(3)] 42a-1-201(b), as
T66 amended by this act.
T67 "Contract". Section [42a-1-201(11)] 42a-1-201(b), as
T68 amended by this act.
T69 "Investment property". Section 42a-9-102(a).
T70 "Money". Section [42a-1-201(24)] 42a-1-201(b), as
T71 amended by this act.
T72 "Person". Section [42a-1-201(30)] 42a-1-201(b), as
T73 amended by this act.
T74 "Person related to". Section 42a-9-102(a).
T75 "Security interest". Section [42a-1-201(37)] 42a-1-201(b), as
T76 amended by this act.
T77 "Send". Section [42a-1-201(38)] 42a-1-201(b), as
T78 amended by this act.

1692 Sec. 54. Subsection (c) of section 47a-21 of the general statutes is
1693 repealed and the following is substituted in lieu thereof (*Effective*
1694 *October 1, 2005*):

1695 (c) Any security deposit paid by a tenant shall remain the property
1696 of such tenant in which the landlord and his successor shall have a
1697 security interest, as defined in [subsection (37)] subdivision (35) of
1698 subsection (b) of section 42a-1-201, as amended by this act, to secure
1699 such tenant's obligations. A security deposit shall be exempt from
1700 attachment and execution by the creditors of the landlord or his
1701 successor and shall not be considered part of the estate of the landlord
1702 or his successor in any legal proceeding. Any voluntary or involuntary
1703 transfer of a landlord's interest in residential real estate to a successor
1704 shall constitute an assignment to such successor of such landlord's
1705 security interest in all security deposits paid by tenants of such

1706 transferred residential real estate.

1707 Sec. 55. Subdivision (5) of section 53-129a of the general statutes is
 1708 repealed and the following is substituted in lieu thereof (*Effective*
 1709 *October 1, 2005*):

1710 (5) "Security interest" has the same meaning as specified in
 1711 subdivision [(37)] (35) of subsection (b) of section 42a-1-201, as
 1712 amended by this act.

1713 Sec. 56. Sections 42a-1-107, 42a-1-207, 42a-1-208, 42a-2-208 and 42a-
 1714 2A-301 of the general statutes are repealed. (*Effective October 1, 2005*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	42a-1-101
Sec. 2	<i>October 1, 2005</i>	42a-1-102
Sec. 3	<i>October 1, 2005</i>	42a-1-103
Sec. 4	<i>October 1, 2005</i>	42a-1-105
Sec. 5	<i>October 1, 2005</i>	42a-1-106
Sec. 6	<i>October 1, 2005</i>	New section
Sec. 7	<i>October 1, 2005</i>	42a-1-201
Sec. 8	<i>October 1, 2005</i>	42a-1-202
Sec. 9	<i>October 1, 2005</i>	42a-1-203
Sec. 10	<i>October 1, 2005</i>	42a-1-204
Sec. 11	<i>October 1, 2005</i>	42a-1-205
Sec. 12	<i>October 1, 2005</i>	42a-1-206
Sec. 13	<i>October 1, 2005</i>	New section
Sec. 14	<i>October 1, 2005</i>	New section
Sec. 15	<i>October 1, 2005</i>	New section
Sec. 16	<i>October 1, 2005</i>	New section
Sec. 17	<i>October 1, 2005</i>	New section
Sec. 18	<i>October 1, 2005</i>	New section
Sec. 19	<i>October 1, 2005</i>	New section
Sec. 20	<i>October 1, 2005</i>	New section
Sec. 21	<i>October 1, 2005</i>	New section
Sec. 22	<i>October 1, 2005</i>	New section
Sec. 23	<i>October 1, 2005</i>	42a-2-103(1)
Sec. 24	<i>October 1, 2005</i>	42a-2-202

Sec. 25	<i>October 1, 2005</i>	42a-2-402(3)
Sec. 26	<i>October 1, 2005</i>	42a-2A-102
Sec. 27	<i>October 1, 2005</i>	42a-2A-704(a)
Sec. 28	<i>October 1, 2005</i>	42a-2A-721(a)
Sec. 29	<i>October 1, 2005</i>	42a-3-103(a)
Sec. 30	<i>October 1, 2005</i>	42a-4-104(c)
Sec. 31	<i>October 1, 2005</i>	42a-4A-105(a)
Sec. 32	<i>October 1, 2005</i>	42a-4A-106(a)
Sec. 33	<i>October 1, 2005</i>	42a-4A-204(b)
Sec. 34	<i>October 1, 2005</i>	42a-5-102(a)
Sec. 35	<i>October 1, 2005</i>	42a-5-103(c)
Sec. 36	<i>October 1, 2005</i>	42a-5-108(g)
Sec. 37	<i>October 1, 2005</i>	42a-8-102(a)
Sec. 38	<i>October 1, 2005</i>	42a-8-111
Sec. 39	<i>October 1, 2005</i>	42a-9-102(a)(43)
Sec. 40	<i>October 1, 2005</i>	1-1a
Sec. 41	<i>October 1, 2005</i>	1-268(b)
Sec. 42	<i>October 1, 2005</i>	1-281(d)
Sec. 43	<i>October 1, 2005</i>	12-81(70)(C)
Sec. 44	<i>October 1, 2005</i>	12-81(72)(C)
Sec. 45	<i>October 1, 2005</i>	12-407(a)(12)
Sec. 46	<i>October 1, 2005</i>	12-407(a)(15)(A)
Sec. 47	<i>October 1, 2005</i>	14-165(8)
Sec. 48	<i>October 1, 2005</i>	14-167
Sec. 49	<i>October 1, 2005</i>	36a-770(c)
Sec. 50	<i>October 1, 2005</i>	42-221(d)
Sec. 51	<i>October 1, 2005</i>	42-240(4)
Sec. 52	<i>October 1, 2005</i>	42-252
Sec. 53	<i>October 1, 2005</i>	42-391(b)
Sec. 54	<i>October 1, 2005</i>	47a-21(c)
Sec. 55	<i>October 1, 2005</i>	53-129a(5)
Sec. 56	<i>October 1, 2005</i>	Repealer section

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

This bill, which makes a number of changes to Article 1 of the Uniform Commercial Code (UCC), has no fiscal impact to the state.

House "A" strikes section 13 of the bill and allows the parties involved in a transaction to agree on which state law shall govern their rights and duties.

OLR Bill Analysis

sHB 6985 (as amended by House "A")*

**AN ACT ADOPTING REVISED ARTICLE 1 OF THE UNIFORM
COMMERCIAL CODE CONCERNING GENERAL PROVISIONS****SUMMARY:**

This bill changes the definitions and rules that apply throughout the Uniform Commercial Code (UCC). The UCC covers a number of topics including the sale of goods, leases, bank deposits and collections, and secured transactions. The bill's definitions and rules, as those in current law, do not apply to other parts of the UCC if contrary or more specific ones are found there.

The bill:

1. modifies the rule established by federal law on electronic signatures;
2. adds provisions on the use of the "course of performance" in interpreting agreements between parties;
3. allows a waiver or renunciation in an authenticated record;
4. adds a provision on subordinated obligations;
5. deletes a general statute of frauds provision, although others apply, to specific types of UCC transactions;
6. adds some definitions and alters other; and
7. makes a number of technical changes.

The bill specifies that it applies to transactions to the extent they are governed by UCC provisions. It specifies that if any UCC provision or clause or an application of it to a person or circumstances is ruled invalid, it does not affect other UCC provisions or applications that can

be given effect without the invalid provisions or applications.

*House Amendment "A" returns to the current law regarding choice of law provisions by eliminating the original bill's changes including (1) applying Connecticut's conflict of laws principles when there is no valid agreement between the parties about what law applies instead of applying Connecticut law to transactions when there is an appropriate relation to this state, (2) adding a rule for consumer transactions, and (3) specifying that an agreement is not effective to the extent applying the law chosen by the parties is contrary to a fundamental policy of the state or country whose law would govern if there were no agreement.

EFFECTIVE DATE: October 1, 2005

E-SIGN

The federal Electronic Signatures in Global and National Commerce Act (E-SIGN) validates the use of electronic records and signatures (15 U.S.C. § 7001 et seq.). It applies to interstate and foreign commerce. Where E-SIGN conflicts with a state law, the federal law preempts state law. But a state provision can modify, limit, or supersede E-SIGN's electronic contracting provisions if it provides alternative procedures or requirements for the use or acceptance of electronic records or signatures, is consistent with the federal law, does not require or accord greater legal status or effect to a specific technology, and specifically references the federal act.

The bill's provisions modify, limit, and supersede E-SIGN except for certain provisions on consumer disclosures (requiring consent for electronic delivery of disclosures the law requires to be in writing). It specifies that it does not authorize electronic delivery of court notices and certain notices regarding utility services, housing, health and life insurance, and product recalls.

COURSE OF PERFORMANCE, COURSE OF DEALING, AND USAGE OF TRADE

The bill defines "course of performance" as a sequence of conduct between the parties to a particular transaction that exists if (1) their agreement for the transaction involves repeated occasions for performance by a party and (2) the other party, knowing the nature of performance and the opportunity to object to it, accepts or acquiesces

to the performance without objection.

The bill adds that a course of performance (as well as the course of dealing and usage of trade under current law) can give meaning and supplement or qualify terms of an agreement between parties.

Under current law, course of dealing is a sequence of previous conduct between the parties to a particular transaction that is fairly regarded as establishing a common basis of understanding for interpreting their expressions and other conduct. The bill specifies that the conduct relates to previous transactions between the parties.

The bill also allows, rather than requires, a usage of trade applicable in the place where part of the performance is to occur to be used for that part of the performance. Under current law, usage of trade is a practice or method of dealing regularly observed in a place, vocation, or trade that justifies an expectation that it will be observed in the transaction. It can be found in a trade code or similar writing. The bill eliminates the writing requirement in that provision and instead requires a record (which the bill defines below).

As under current law, when it is not possible to construe the course of dealing or usage of trade as consistent with the agreement, the agreement's express provisions prevail. Under the bill, express provisions also prevail over a course of performance but the course of performance prevails over the course of dealing and usage of trade.

Under the bill, a course of performance is relevant to show a waiver or modification of any term inconsistent with the course of performance (but this is subject to the rules for modification, rescission, and waiver under the sale of goods law (UCC Article 2)).

WAIVER OR RENUNCIATION OF CLAIM OR RIGHT AFTER BREACH

The bill allows a waiver or renunciation to discharge a claim or right arising out of an alleged breach to be in an electronic form as well as in writing. The bill does so by requiring an authenticated record (defined as information inscribed on a tangible medium or stored in an electronic or other medium that can be retrieved in perceivable form) instead of requiring a written and signed agreement.

SUBORDINATED OBLIGATIONS

Under the bill, an obligation can be issued as subordinated to another obligation or a creditor can subordinate its right to performance of an obligation by agreeing with the obligated person or another creditor. The bill specifies that subordination does not create a security interest against either the debtor or the creditor.

STATUTE OF FRAUDS

The bill eliminates the statute of frauds for personal property other than for contracts for the sale of goods, securities, or security agreements. The deleted provision states that a contract for the sale of personal property is not enforceable beyond \$5,000 in amount or remedy unless there is a writing indicating a contract between the parties at a defined or stated price, reasonably identifying the subject matter, and signed by the party (or his authorized agent) against whom enforcement is sought.

Other UCC articles have statute of fraud rules (such as Article 2 for the sale of goods, Article 2A for leases, and Article 8 for sale of investment securities). Current law also provides a general statute of frauds that prohibits civil actions to enforce an agreement unless the agreement or a memorandum of it is in writing and signed by the party against whom it is to be enforced (or the party's agent) for an agreement that is not to be performed within a year of its making, for a loan exceeding \$50,000, and certain other types of agreements.

DEFINITIONS

As under current law, the bill's definitions apply throughout the UCC unless an article includes a specific definition or the context requires otherwise. The bill provides that the words and phrases it defines, or that are defined in other articles of the UCC that apply to particular articles or parts of them, have the meanings stated unless the context requires otherwise.

New Definitions

The bill defines a "consumer" as an individual who enters a transaction primarily for personal, family, or household purposes.

The bill defines a “record” as information inscribed on a tangible medium or stored in an electronic or other medium that can be retrieved in perceivable form.

Under the bill, “state” is a U.S. state, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or a territory or insular possession subject to U.S. jurisdiction.

Changed Definitions

The bill specifies that the definition of “bank” includes a savings bank, savings and loan association, credit union, and trust company. As under current law, a bank is a person engaged in the business of banking.

Under the bill, a “defendant” includes a defendant in a third-party claim (a claim where the defendant brings in another party) as well as defendants in counterclaims and cross-claims as in current law.

Under current law, “fault” is a wrongful act, omission, or breach. The bill adds default to the list of items that is considered fault.

The bill expands the definition of “good faith” to include the observance of reasonable commercial standards of fair dealing, as well as honesty in fact.

The bill alters one part of the definition of “insolvent,” from someone who has ceased to pay his debts in the ordinary course of business to someone who has generally ceased to pay debts in the ordinary course of business other than because of a bona fide dispute.

It provides more specific examples of “person,” including a limited liability company, joint venture, government instrumentality, and public corporation. It eliminates a provision that an organization includes two or more people having a joint or common interest.

The bill makes the current definition of “present value” that applies for purposes of the definition of a security interest applicable generally throughout the UCC. “Present value” means the amount as of a certain date of one or more sums payable in the future, discounted by using (1) an interest rate specified by the parties if it is not manifestly unreasonable at the time of entering the transaction or (2) a

commercially reasonable rate that accounts for facts and circumstances at the time of entering the transaction.

The bill specifies that “purchase” includes leases.

The bill alters the intent requirement in the definition of “sign.” Instead of using a symbol with intent to authenticate a writing, the bill requires the intent to adopt or accept the writing.

The bill adds secondary obligor to the definition of a “surety.” Current law is limited to guarantors.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 40 Nay 0